

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) No. 4:18-cr-975-ERW
)
DUSTIN BOONE AND CHRISTOPHER)
MYERS,)
) June 7, 2021
Defendants.)

JURY TRIAL - DAY #1 - VOIR DIRE
BEFORE THE HONORABLE E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE

APPEARANCES

FOR DEFENDANT
Dustin Boone

Patrick S. Kilgore, Esq.
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REPORTED BY: Laura A. Esposito, RPR, CRR, CRC
U.S. District Court
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(PRODUCED BY COMPUTER-AIDED MECHANICAL STENOGRAPHY.)

1 *(Proceedings convened in open court at 8:34 a.m. with*
2 **defendants present.)**

3 *(Jury not present.)*

4 **THE COURT:** Calling the case, United States of America
5 vs. Mr. Dustin Boone and Mr. Christopher Myers. The number
6 is 4:18-cr-00975-ERW.

7 Is the United States ready?

8 **MS. COSTANTIN:** Yes, Your Honor.

9 **THE COURT:** Defendant ready?

10 **MR. ROSENBLUM:** Yes, Your Honor.

11 **THE COURT:** Good morning. Go ahead, whenever you're
12 ready.

13 **MS. COSTANTIN:** Judge, the way we did this last time
14 was, I believe -- correct me if I'm wrong -- was that the
15 Court did its voir dire, and for sort of the hot button
16 questions like publicity or knowledge about -- participation
17 in protests or support of Black Lives Matter or Blue Lives
18 Matter, we just had them raise their hands, and then at the
19 end we sent everybody out and brought those in individually
20 and did individual voir dire.

21 **THE COURT:** Yeah, I picked that up from --

22 **MS. COSTANTIN:** Okay. Is that how we did it?

23 **THE COURT:** Yeah. We will -- we'll do it the same way
24 unless there's an objection.

25 **MS. COSTANTIN:** The sidebar just was hopeless.

1 There's not enough space and everything. Okay, great.
2 That's all I wanted to say.

3 **DEPUTY CLERK:** Does everybody have the list that Judge
4 Webber -- questions he's going to ask?

5 **MR. ROSENBLUM:** We do.

6 **DEPUTY CLERK:** We've got extra copies if anybody needs
7 one.

8 **MS. COSTANTIN:** Oh, Judge, the only thing, I think
9 there's a typo on one page where it says do you agree with
10 something as opposed to disagree.

11 **THE COURT:** Do you know which page?

12 **MS. COSTANTIN:** Yeah. I'm trying to find it.

13 **THE COURT:** That sounds like an important change.

14 **MS. COSTANTIN:** Page 6, Question D.

15 **THE COURT:** Okay. "Is there anyone who does not
16 understand that the burden of proof in a criminal case is
17 different than in a civil case? In a criminal case the
18 government is required to prove defendant's guilt beyond a
19 reasonable doubt. Does anyone disagree?"

20 Oh, yeah, yeah, yeah, disagree. Thank you.

21 Kelley is ready to go down and bring the jurors up for
22 voir dire, the first 30. If there's anything remaining,
23 we'll take it up before they get here.

24 **MS. COSTANTIN:** Judge, what we found to be helpful was
25 that they give us the list and give us maybe ten minutes so

1 we can translate what's on the questionnaire to the list
2 before they get brought in, if that's okay.

3 **THE COURT:** Okay. That's fine.

4 **(Off the record.)**

5 **(Venire panel enters the courtroom.)**

6 **THE COURT:** I'm calling the case, *United States of*
7 *America vs. Mr. Dustin Boone and Mr. Christopher Myers.* The
8 case number is 4:18-cr-00975-ERW. Is the United States
9 ready? Is the United States ready?

10 **MS. COSTANTIN:** Yes, Your Honor.

11 **THE COURT:** Is Defendant Boone ready?

12 **MR. KILGORE:** Yes, Your Honor.

13 **THE COURT:** Is Defendant Myers ready?

14 **MR. ROSENBLUM:** Yes, Your Honor.

15 **THE COURT:** All right. That was a "yes" for
16 Mr. Myers; correct? I asked if Mr. Myers was ready.

17 **MR. ROSENBLUM:** Yes, Your Honor.

18 **THE COURT:** Yes. Thank you.

19 Ladies and gentlemen of the jury, thank you so very
20 much for your faithful appearance this morning. I shall now
21 read Jury Instruction Number 0.01: "Members of the jury, if
22 you have a cell phone, smart phone, iPhone, or any other
23 wireless communication device with you, please take it out
24 now and turn it off."

25 I forgot. I told you you would have a few minutes to

1 look at the list.

2 **MR. ROSENBLUM:** Yes.

3 **THE COURT:** Okay. Go ahead.

4 **MS. COSTANTIN:** Judge, I think we're ready to proceed.

5 **THE COURT:** You think you've had time?

6 **MS. COSTANTIN:** I don't think we need any more
7 additional time.

8 **MR. ROSENBLUM:** Oh, yes.

9 **THE COURT:** Okay. Thank you.

10 You must leave your cell phones completely powered off
11 whenever you are in the courtroom. You may use them during
12 breaks, of course, but whenever you come back into the
13 courtroom, please be sure they are completely powered off.
14 If you are selected as a juror you must continue to leave
15 your cell phones powered off whenever you are in the
16 courtroom. After you -- also, you will not be allowed to
17 have your phones in the jury room during deliberations. You
18 may give them to the court clerk for safekeeping.

19 I understand you may want to tell your family, close
20 friends, and others, other people about your participation
21 in this trial so you can explain when you are required to be
22 in court, and you should warn them not to ask you about the
23 case. You must not tell anyone and no one should know about
24 it or discuss the case in any -- in your presence.

25 You must not post any information on a social network

1 or communicate with anyone about the parties, witnesses,
2 participants, charges, evidence, or anything else related to
3 the case or tell anyone anything about the jury's
4 deliberations in this case until after I accept your verdict
5 or until I give you specific permission to do so.

6 If you discuss the case with someone other than the
7 other jurors during deliberations, you may be -- it may
8 be -- you may be influenced in your verdict by their
9 opinions. That would be unfair to the parties and it would
10 result in a verdict that is not based on the evidence and
11 the law.

12 While you are in the courtroom and until you are
13 discharged as jurors in this case, do not provide any
14 information to anyone by any means about the case. Thus,
15 for example, do not talk face-to-face or use any electronic
16 device or media such as telephone or cell phone, smart
17 phone, camera, recording device, computer, the internet, any
18 internet service, any text or instant messaging service, any
19 social media, including services or apps such as Facebook,
20 Instagram, Snapchat, or Twitter, or in any other way to
21 communicate to anyone any information about this case until
22 I accept your verdict or until you have been excused as a
23 juror.

24 Do not do any research on the internet, in libraries,
25 in the newspapers or in any other way, or make any

1 investigation about the case on your own. Do not visit or
2 view any place discussed in this case and do not use
3 internet programs or other devices to search for or to view
4 any place discussed in the testimony.

5 Also, do not research any information about this case,
6 the law or the people involved, including the parties, the
7 witnesses, the lawyers or the judge until you have been
8 excused as jurors.

9 The parties have a right to have this case decided
10 only on the evidence they know about and that has been
11 presented here in court. If you do some research or
12 investigation or experiment that we don't know about, then
13 your verdict may be influenced by inaccurate, misleading
14 information that has not been tested by the trial process,
15 including the oath to tell the truth and by
16 cross-examination.

17 Each of the parties is entitled to a fair trial
18 rendered by an impartial jury and you must conduct yourself
19 so as to maintain the integrity of the trial process.

20 If you decide a case based on information not
21 presented in court you will have denied the parties a fair
22 trial in accordance with the rules of this country and you
23 will have done an injustice. It is very important that you
24 abide by these rules, follow the instructions; otherwise, it
25 could result in the case having to be retried.

1 Is there anyone any one of you who cannot or will not
2 abide by these rules concerning communications with others
3 and outside research in any way, shape, or form during the
4 trial? I see no hands.

5 Just one second.

6 Okay. The purpose of voir dire is to select a jury
7 that will be fair to both sides and to make sure no
8 preconceived notions generally and any ideas about this case
9 might influence your decisions. "Fair to both sides" means
10 a jury that will be -- that will decide the case based only
11 on the evidence presented here in court and the law as I
12 give it in my instructions.

13 Thank you for answering the questionnaires. That will
14 shorten things considerably. I'll be making some -- asking
15 some questions today, as will the lawyers. We're not
16 intending to be rude or pry into your personal affairs, but
17 some questions may do that. If there is a question that is
18 so personal to you, you're not comfortable in answering in
19 front of your fellow jurors, you always have the option of
20 raising your hand and taking -- and talking to -- and taking
21 an opportunity to come up here to sidebar so that lawyers
22 and I can hear your answers.

23 Would you all please rise and raise your right hand to
24 take an oath at this time.

25 *(The oath is administered to the venire panel.)*

1 **THE COURT:** I will be asking some questions and then
2 respective counsel will be asking some questions of the
3 panel. If you would prefer to keep your answer private, as
4 I mentioned, please ask to give it privately up here at the
5 bench. When you give an answer, even if you do so more than
6 one time, please state your number for the court reporter.

7 Now, Ms. Esposito, if you view her you would think
8 she's a relatively reasonable person. However, I must warn
9 you, if the record isn't entirely complete and accurate --
10 we don't want to go there. So if I ask you over and over
11 and over to give your number, please do so because it's
12 really important that she gets the record accurately.

13 Counsel for the United States will introduce herself
14 and introduce any other persons at counsel table.

15 **MS. COSTANTIN:** My name is Carrie Costantin. I'm an
16 Assistant United States Attorney in this office.
17 Robert Livergood is also an Assistant United States
18 Attorney, and Darren Boehlje is an agent with -- special
19 agent with the FBI.

20 **THE COURT:** Is there any member of the panel who knows
21 or believes you may know any of the individuals just
22 introduced at the United States Attorney's table? I see no
23 hands.

24 Counsel for defendants will introduce themselves and
25 introduce their clients and other persons at the table.

1 First, Mr. Kilgore.

2 **MR. KILGORE:** Good morning. My name is
3 Patrick Kilgore, and I represent Dustin Boone.

4 **THE COURT:** Mr. Rosenblum?

5 **MR. ROSENBLUM:** Thank you, Your Honor. My name is
6 Scott Rosenblum. Along with Adam Fein and Brad Bilyeu, we
7 represent Christopher Myers. Good morning.

8 **THE COURT:** Thank you. Is there anyone just
9 introduced from counsel table that you know or think you may
10 know? I see no hands.

11 Is there anyone on the panel who does not understand
12 that a charge is not evidence, and simply because a person
13 has been charged is no indication of guilt? Is there anyone
14 who does not understand that? Okay.

15 In a criminal case the defendant is presumed innocent
16 until proved guilty beyond a reasonable doubt. This
17 presumption remains with the defendant until found guilty by
18 a jury. The obligation's always on the government, or
19 United States, to prove the defendant's guilt and there is
20 no obligation on the defendant to prove his innocence. Is
21 there anyone on the panel who disagrees with these
22 principles?

23 Would any of you find the defendant not guilty even if
24 convinced of his guilt, either defendant, beyond a
25 reasonable doubt -- if convinced of the guilt of either

1 defendant beyond a reasonable doubt solely because you felt
2 sympathy for the defendant? I see no hands.

3 Is there anyone who does not understand that the
4 burden of proof in a criminal case is different than in a
5 civil case? In a criminal case the government, or
6 United States, is required to prove the defendant's guilt
7 beyond a reasonable doubt. Does anyone disagree with this
8 principle?

9 Is there anyone who does not understand that the
10 defendant has an absolute right not to testify? Will any of
11 you be more likely to believe he is guilty if the defendant
12 does not testify? I see no hands.

13 Is there anyone who does not understand that if a
14 defendant does not testify you may not discuss that in your
15 deliberations? I see no hands.

16 This case is alleged to have happened during the
17 highly publicized protests that began the afternoon of
18 September 15th, 2017, after the acquittal of former
19 St. Louis City Police Officer Jason Stockley. Did anyone
20 here participate in those protests that began on
21 September 15, 2017 and continued for several days? If so,
22 would you raise your hand and be identified at this time. I
23 see no hands.

24 The defendants in this case were police officers. One
25 of the defendants is charged with violating the civil rights

1 of another police officer, Luther Hall, who was working
2 undercover during the protests posing as a protester. The
3 other defendant is --

4 **MR. ROSENBLUM:** Can we approach?

5 **THE COURT:** Sure.

6 * * * *

7 *(Discussion held at sidebar between the Court and
8 counsel as follows:)*

9 **MR. ROSENBLUM:** Sorry to interrupt. You said the
10 defendants are charged with violating the civil rights.
11 There's only one defendant who's charged with violating
12 civil --

13 **MS. COSTANTIN:** No. He said one defendant is charged.
14 He changed it.

15 **THE COURT:** Just make sure.

16 **MR. ROSENBLUM:** I know he changed it but he said the
17 defendants are charged.

18 **MS. COSTANTIN:** One defendant. I thought he said one
19 defendant.

20 **DEPUTY CLERK:** Laura just read back, Judge, you said
21 one.

22 **MS. COSTANTIN:** You said one.

23 **THE COURT:** (Inaudible.)

24 **DEPUTY CLERK:** That's what Laura just read back.

25 **MR. ROSENBLUM:** Okay. I'm sorry. I misunderstood

1 you.

2 **MS. COSTANTIN:** As long as we're up here, I think
3 either you skipped a page or you're going to come back to
4 it.

5 **DEPUTY CLERK:** The page was 6. It starts with 6,
6 Judge.

7 **MS. COSTANTIN:** Seven.

8 **DEPUTY CLERK:** Page 7. That's what Sara just said.
9 Did we skip 6 or 7?

10 **MS. COSTANTIN:** Seven. Skipped page 7. I mean we can
11 always come back to it after you do this.

12 **THE COURT:** (Inaudible.)

13 **MS. COSTANTIN:** No; 7, page 7. Have you participated
14 in protests, all that stuff.

15 **THE COURT:** Okay. I'll start at the top of page 7.

16 **MS. COSTANTIN:** And the only other thing -- I'm sorry.
17 As long as we're up here, do you want to make an
18 announcement about masks or -- I don't know what you wanted
19 the rule to be on masks.

20 **THE COURT:** They've been told they all have to wear
21 masks.

22 *(End of discussion at sidebar.)*

23 * * * *

24 **THE COURT:** I appreciate when counsel or anyone
25 corrects one of my mistakes. I skipped -- I started reading

1 from page 8, and so I need to go back to page 7.

2 There are two defendants in this case, and the
3 United States government has the burden of proof and that
4 extends to each one separately. Each defendant is entitled
5 to be treated separately and you must consider the evidence
6 as to each one separately.

7 The jury has no role in sentencing. If you find a
8 defendant guilty, that is a matter to be decided by the
9 judge, not the jury.

10 Has any juror here today participated in a protest in
11 any matter in the past eight years? I see no hands.

12 **(Inaudible.)**

13 **THE COURT:** Oh, okay. Could I have the numbers,
14 please.

15 **DEPUTY CLERK:** Thirty-two.

16 **THE COURT:** Thirty-two? Okay. Was there someone
17 else? Okay. We'll come back to that later. Thank you.

18 Does anyone have a family member or close friend who
19 participated in a public protest in the last eight years,
20 other than 32? Okay.

21 Now, I have already read part of this but I'm going to
22 reread it. This case is alleged to have happened during a
23 highly publicized protest that began the afternoon of
24 September 15th, 2017, after the acquittal of former
25 St. Louis City Police Officer Jason Stockley.

1 Did anyone here participate in those protests on
2 September 15, 2017? And that continued for several days. I
3 think I saw no hands when I asked the first time.

4 The defendants in this case were police officers. One
5 of the defendants is charged with violating the civil rights
6 of another police officer, Luther Hall, who was working
7 undercover during the protest posing as a protester. The
8 other defendant is charged with destruction of evidence in
9 contemplation of an investigation. Does anyone here know
10 Mr. Luther Hall? I see no hands.

11 Is there anyone here who has personal knowledge about
12 this incident? I see no hands.

13 Is there one? Yes. Number?

14 **JUROR NO. 18:** Eighteen.

15 **THE COURT:** Eighteen. Thank you. Yes?

16 **JUROR NO. 25:** News coverage.

17 **THE COURT:** Pardon me?

18 **JUROR NO. 25:** News coverage.

19 **THE COURT:** News coverage. Okay. Number 4?

20 **JUROR NO. 4:** News coverage and on Facebook.

21 **JUROR NO. 6:** News coverage.

22 **JUROR NO. 14:** News coverage.

23 **THE COURT:** Anyone else?

24 **JUROR NO. 31:** News coverage.

25 **THE COURT:** Anyone else? Okay. Thank you.

1 Has anyone here read or heard -- I got ahead of
2 myself.

3 Has anyone here read or heard any news reports or
4 other stories about this case or been told about it by
5 someone or otherwise think they know something about the
6 case? And I have 23, maybe 25. Was it number 25?

7 **JUROR NO. 25:** Twenty-five.

8 **THE COURT:** Yeah, 25, 4, 6, 13, 41. Anyone else that
9 could answer that question about news coverage? Yes?

10 **JUROR NO. 18:** Eighteen.

11 **THE COURT:** Eighteen. Thank you. We'll come back to
12 you later. Yes?

13 **JUROR NO. 27:** Twenty-seven.

14 **THE COURT:** Thank you. Okay. Whether personal
15 knowledge or news reports, would this -- I'll come back and
16 talk to you about this later.

17 I'm sure everyone has been watching the news this past
18 year and heard of the incident of George Floyd. Is there
19 anyone here that, as they are viewing the evidence in this
20 case, thinks that they will not be able to keep that
21 incident or other related incidents, such as the one with
22 Breonna Taylor or Michael Brown, out of their minds? Yes.
23 Number?

24 **JUROR NO. 32:** Thirty-two.

25 **THE COURT:** Thirty-two.

1 **JUROR NO. 18:** Eighteen.

2 **THE COURT:** Pardon me?

3 **JUROR NO. 18:** Eighteen.

4 **THE COURT:** Anyone else? Okay.

5 There may also be news reports about this case while
6 the trial is ongoing. If you are selected to serve on the
7 jury you will be obliged to not view or read any news
8 coverage about the case. Is there -- if there should be
9 any. Is there anyone who believes that they could not or
10 would be unwilling to follow this rule? I see no hands.

11 Does anyone have opinions that would affect your
12 ability to serve as a fair and impartial juror in this case
13 about the movements known as Black Lives Matter, Defund the
14 Police, or Blue Lives Matter? Let me read them again:
15 Black Lives Matter, Defund the Police, or Blue Lives Matter.
16 I see no hands.

17 Is there anyone who -- I'm going to talk a little bit
18 more about publicity. Is there anyone who does not
19 understand that it is the duty of a juror selected in this
20 case to try the case, to reach a verdict based only from the
21 evidence heard in court and the instructions of the court?
22 Is there anyone who does not understand that?

23 Is there anyone on the panel who could not for any
24 reason set aside what you have heard or believe you have
25 heard and decide this case only from the evidence and the

1 instructions of the Court?

2 I think there were two hands I saw a while ago.

3 Number 32 and 18. Am I correct?

4 Let me read it again: Is there anyone on this panel
5 who could not for any reason set aside what you have heard
6 or believe you have heard and decide the case only from the
7 evidence and the instructions of the Court? And I thought
8 18 and 32 raised your hands. Am I correct? Yes, 18. Okay.
9 Thank you.

10 Have any of you read any material about -- well, I
11 asked that already -- from any source, whether television,
12 newspaper, radio, or any source? Is there anyone who has
13 not already responded who has received any information about
14 this case? Okay.

15 Could I see counsel for just a moment, please.

16 * * * *

17 **(Discussion held at sidebar between the Court and**
18 **counsel as follows:)**

19 **THE COURT:** I don't have the United States witness
20 list. I have defendants' witness list.

21 **MS. COSTANTIN:** I'm sorry, we didn't bring a copy.

22 **MR. KILGORE:** I have one copy.

23 **DEPUTY CLERK:** What do you need, Judge?

24 **THE COURT:** Government's witness list.

25 **DEPUTY CLERK:** Here's defendants'.

(Simultaneous crosstalk; indiscernible.)

THE COURT: I'm going to be jumping around on this list, so I --

MR. ROSENBLUM: But you're not going to refer to this as the defendants'?

THE COURT: No. Just names of witnesses.

(End of discussion at sidebar.)

* * *

THE COURT: Sorry. One other question.

* * *

*(Discussion held at sidebar between the Court and
counsel as follows:)*

THE COURT: I don't have Defendant Boone's witness list.

MS. COSTANTIN: It's the same as Myers.

MR. ROSENBLUM: It's the same.

THE COURT: Okay, great. Thanks.

(End of discussion at sidebar.)

* * * *

attorneys in

me with the names of individuals that may be called as witnesses. I'm going to read from a list, and if -- I'll read a name, and if any one you recognizes a name, please raise your hand.

25 Darren B-O-E-H-L-J-E. Boehlje, I guess. Boehlje.

1 Anyone, Darren Boehlje?

2 Kim Allen. Lawrence Bryant. Dr. Jacob Buchowski.

3 Anthony Caruso. Marcus Burzota, B-U-R-Z-O-T-A.

4 Paul Chester. Anthony Caruso. I asked that already.

5 Justin Davis. Joseph Crews, C-R-E-W-S.

6 Yes. Number?

7 **JUROR NO. 21:** I do know Joe Crews. Officer Joe
8 Crews?

9 **THE COURT:** Okay. And number, please?

10 **JUROR NO. 21:** Number 21.

11 **THE COURT:** Could you explain the general nature of
12 your relationship with Mr. Crews.

13 **JUROR NO. 21:** If it's Officer Joe Crews, we're in the
14 same parish, same church.

15 **THE COURT:** Okay. Is that relationship such, if
16 you're selected as a juror, that would influence -- unduly
17 influence your ability to sit as a juror in this case?

18 **JUROR NO. 21:** No. I haven't talked to him in quite a
19 few years.

20 **THE COURT:** Okay. Thank you.

21 Michael Deeba, D-E-E-B-A. Matthew Drake. Zach Foltz,
22 F-O-L-T-Z. Christopher Gwaltney, G-W-A-L-T-N-E-Y.
23 John Green. Luther Hall.

24 **MR. ROSENBLUM:** Had a hand.

25 **THE COURT:** Hand? Sorry. Okay. Yes?

1 **JUROR NO. 18:** I didn't know him.

2 **THE COURT:** Could I have your number, please.

3 **JUROR NO. 18:** Eighteen.

4 **THE COURT:** Eighteen. And what was your response?

5 **JUROR NO. 18:** I said I don't know him but I recognize
6 the name.

7 **THE COURT:** Okay. All right. Thank you.

8 Patrick Haug, H-A-U-G. Patrick H-A-U-G. Randy Hays.

9 John Hayden. Randy Jemerson, J-E-M-E-R-S-O-N.

10 Taylor Hosna, H-O-S-N-A. Lindsey Kellis, K-E-L-L-I-S.

11 Justin Johnson. Jerry Leyshock, L-E-Y-S-H-O-C-K.

12 Andrew Kleffner, K-L-E-F-F-N-E-R. Kyle Mack, M-A-C-K.

13 Matthew Manley. Joseph Marcantano, M-A-R-C-A-N-T-A-N-O.

14 M-A-R-C-A-N-T-A-N-O. Michael Mayo. Richard Melts -- Metz,

15 M-E-T-Z. Lawrence O'Toole. Ryan Rossomanno,

16 R-O-S-S-O-M-A-N-N-O. Lieu Naes, N-A-E-S. Trevor Russell.

17 Dan Ogden. Jeff Schaffer. Nathan Strickland. Marcos

18 Silva. Heather Taylor. Marty Walls III. Matthew Tesserou,

19 T-E-S-S-E-R-A-U. Matthew T-E-S-S-E-R-A-U.

20 All right. That's all the witnesses. These are "may
21 call" witnesses. They may be called.

22 I shall not indicate my opinion about the facts of
23 this case. It is the jury's duty to decide the facts and
24 the judge's duty to rule on questions of law.

25 Is there anyone on the panel who does not understand

1 that it is your duty, if you are selected as a juror, to
2 follow the law as the Court gives it to you even though you
3 may disagree with the law or find the law repugnant or
4 unpleasant to apply as the Court applies it and gives it to
5 you? Okay.

6 Is there anyone who has not already answered who can
7 think of any matter or experience in their lives which would
8 prevent them from being a completely fair and impartial
9 juror in this case? Yes, sir. What's your number?

10 **JUROR NO. 6:** Six.

11 **THE COURT:** And what is the reason?

12 **JUROR NO. 6:** I watch a lot of First Amendment audit
13 videos and so it may have colored my opinion of law
14 enforcement.

15 **THE COURT:** Okay. Thank you. Anyone else?

16 Does each of you realize that objections will be made?
17 And if there are objections, will you hold against the side
18 that makes the objection? This is just -- sometimes lots of
19 objections follow and sometimes it gets annoying but it's
20 important and the lawyers are trying to do their best to
21 protect the interests of their clients. So is there anyone
22 who would hold it against the party if lots of objections
23 are made? Okay.

24 From time to time attorneys, as you already have
25 observed, will require and request a bench conference. Is

1 there anyone who would object to that process? These
2 lawyers will try to keep that to a minimum but it has to
3 happen from time to time.

4 Is there any member of the panel who has not already
5 answered who could not for any reason listen carefully --
6 other than those who have answered -- listen carefully to
7 all the evidence and not make up her or his mind prematurely
8 about the case until all the evidence has been seen and
9 heard and the instructions of the Court have been given?

10 Is there any member of the panel who, for any reason,
11 whether I've asked the question or not, feels that he or she
12 would not want a person listening to his or her case with
13 the same feelings about the case that that particular member
14 has at this time?

15 Is there any member on the panel who, for any reason,
16 whether I've asked the question or not, believes that he or
17 she could not, for any reason, listen to the evidence,
18 decide the facts in a fair, unbiased, and impartial manner,
19 listen to the instructions of the Court, and return a fair
20 verdict?

21 Ms. Costantin, whenever you're ready.

22 **MR. ROSENBLUM:** Your Honor, may we approach?

23 **MS. COSTANTIN:** Judge, I believe we were going to --

24 **THE COURT:** Sure.

25 * * * *

1 *(Discussion held at sidebar between the Court and*
2 *counsel as follows:)*

3 **MR. ROSENBLUM:** I think it was the parties'
4 understanding that number of the jurors, or the numbers --
5 the jurors that answered the question with respect to
6 publicity or protests, that we were going clear the
7 courtroom and take them individually.

8 **THE COURT:** I was going to do those individually after
9 the voir dire, but we can do it first.

10 **MS. COSTANTIN:** Yeah, if we could do it first because
11 then they kind of won't talk about it during our individual
12 voir dire. I don't feel the need to otherwise.

13 **MR. ROSENBLUM:** We could just skip over them.

14 **THE COURT:** Let's bring your list up.

15 **MR. ROSENBLUM:** One more issue. And maybe the Court's
16 advised us. Was there a decision as to the number of
17 strikes on each side?

18 **THE COURT:** Well, we have to have 40. We have to get
19 this number down to 40, and that means the usual 31, if you
20 have one alternate. So, since we have three more, each
21 lawyer has the right to object to each one of those plus --
22 counts for one. So we have to have 40. And then once we
23 get to 40, then you'll make your final strikes.

24 **MS. COSTANTIN:** So we're going to have -- so the
25 government gets six out of the first 24, and the -- I mean

1 six out of the first 30, and then defense shares ten?

2 **THE COURT:** Okay. We can do it that way.

3 **MS. COSTANTIN:** And then for the alternates, are you
4 saying it's one each?

5 **THE COURT:** Yeah.

6 **MS. COSTANTIN:** Okay.

7 **THE COURT:** Now, just so everybody understands. You
8 had a little pause on your face.

9 **MR. ROSENBLUM:** I'm sorry.

10 **THE COURT:** So it's -- after we finish with the panel,
11 you say you're going to have six and ten?

12 **MR. ROSENBLUM:** Six and ten's fine.

13 **MS. COSTANTIN:** But not with this panel; with all the
14 panels.

15 **MR. ROSENBLUM:** With all the panels. All panels.

16 **THE COURT:** All right. Thank you. Would you bring me
17 up your list, please.

18 **(Attorneys talking off the record.)**

19 **MS. COSTANTIN:** Okay, Judge. I think we agree that
20 it's 4, 6, 14, 18, 25.

21 **THE COURT:** Wait a minute. Okay.

22 **MS. COSTANTIN:** Twenty-five.

23 **THE COURT:** Twenty-five.

24 **MS. COSTANTIN:** Twenty-seven.

25 **THE COURT:** Twenty-seven.

1 **MS. COSTANTIN:** Thirty-one and 32.

2 **THE COURT:** What about -- you have 18 twice.

3 **MS. COSTANTIN:** Yeah. And 32 as well. Right. Yeah,
4 I think we're all on the same page.

5 **(End of discussion at sidebar.)**

6 * * * *

7 **THE COURT:** There are going to be some individual
8 questions for the following jurors, so I'm going to be
9 asking that -- and I'll read the numbers twice. I'll ask
10 these members to remain seated. That will be 4, 6, 14, 18,
11 27, 31, 32. Did I cover the list?

12 **MS. COSTANTIN:** Judge, I believe 25.

13 **THE COURT:** And 25. Yeah, 25.

14 So, those jurors please remain seated, and the other
15 jurors will be escorted out into the rotund area while
16 there's a session where questions will be specifically asked
17 of these members. Now, actually everyone goes out and then
18 we'll call those numbers back in; right? Okay. I'm sorry.
19 Everyone will go out into the rotunda and then we'll call
20 them back.

21 Would jurors -- Juror No. 4 remain in the seat and the
22 rest of the jurors follow Ms. Shirley out into the rotunda.

23 **(Jury exits courtroom; Juror No. 4 remains.)**

24 **THE COURT:** All right. You may inquire.

25 **MS. COSTANTIN:** You indicated that you had heard about

1 the case through news coverage as well as Facebook; is that
2 correct?

3 **JUROR NO. 4:** Yes, ma'am.

4 **MS. COSTANTIN:** And is there anything -- what
5 specifically do you remember about it?

6 **JUROR NO. 4:** The articles and the videos.

7 **MR. ROSENBLUM:** Your Honor, would it be okay if the
8 juror removes their mask?

9 **THE COURT:** I'm sorry?

10 **MS. COSTANTIN:** Can the juror remove his mask while
11 he's speaking?

12 **THE COURT:** Oh, sure, sure, sure.

13 **MS. COSTANTIN:** Do you remember the content of what
14 you read?

15 **JUROR NO. 4:** Yeah. They were saying that he was --
16 didn't get his rights under the law was one of the charges.
17 The other one was destroying evidence. And I saw, watched
18 videos that they showed of him -- I guess Officer Hall
19 videoing when he was walking with the protest and all of a
20 sudden his arm went down. And then the other video I saw
21 they were showing one of the officers who was sitting in the
22 car and someone is saying something to him and he covered up
23 and said, "Get the F out of here."

24 **MS. COSTANTIN:** So how long ago was it that you saw
25 this coverage? Relatively recently?

1 **JUROR NO. 4:** Yeah. It's probably been a week ago.

2 **MS. COSTANTIN:** Do you understand that, as a juror,
3 you'd only be able to judge this case on the evidence as it
4 came into court, not what you saw previously?

5 **JUROR NO. 4:** Right.

6 **MS. COSTANTIN:** Is it going to be difficult or
7 impossible for you to like cut that out of your brain and
8 say, *oh, I never saw that*, if some of the stuff that you saw
9 on TV does not actually come into evidence in court?

10 **JUROR NO. 4:** Yeah.

11 **MS. COSTANTIN:** That's fair. I'm not -- I'm just
12 asking what realistically what you can do.

13 **JUROR NO. 4:** I would -- I don't know if I could,
14 honestly. I'm being honest. I don't know if I could.

15 **MS. COSTANTIN:** Okay. Judge, I don't have anything
16 more.

17 **THE COURT:** Okay.

18 **MR. ROSENBLUM:** So the information that you took in,
19 do you recall forming an opinion one way or the other as you
20 listened to it?

21 **JUROR NO. 4:** Yeah. I didn't know who was doing what,
22 but when his camera went dead, I assumed he was getting
23 beaten up or something.

24 **MR. ROSENBLUM:** So you formed some --

25 **JUROR NO. 4:** Right.

MR. ROSENBLUM: Okay. And as Ms. Costantin said, like all of us, it may be difficult to unring the bell?

JUROR NO. 4: Right.

MR. ROSENBLUM: So that may affect your ability to be fair and impartial as you hear this case?

JUROR NO. 4: I think it's always going to be back there, unfortunately.

MR. ROSENBLUM: You do not have to apologize. That's what this process is about. Thank you.

THE COURT: All right. Thank you, sir.

Could I see counsel, please.

* * *

*(Discussion held at sidebar between the Court and
counsel as follows:)*

THE COURT: As these jurors are excused I think I will tell them that they can -- actually, Kelley will just send them out the back way down the stairs. Is that okay?

MS. COSTANTIN: That's fine. No, I have no objection.
I mean I think he -- I would move to exclude him; right?

MR. ROSENBLUM: I would agree.

THE COURT: We're not going to exclude him now.

MR. ROSENBLUM: I don't think it's necessary to sit through the general voir dire, which will just make it cumbersome.

(End of discussion at sidebar.)

1

* * * *

2 **THE COURT:** Thank you, sir, for your service today.

3 We really appreciate it very much.

4 *(Juror No. 4 exits the courtroom; Juror No. 6 enters
5 the courtroom.)*

6 **THE COURT:** You can sit right there in the first row.

7 Thank you.

8 **MS. COSTANTIN:** Sir, I believe the Court would like
9 you to take your mask off just while you're speaking because
10 it's easier for the court reporter.

11 You indicated that you watched a lot of, you called it
12 First Amendment audit videos. I'm sorry, but I'm not
13 familiar with what those are, what that would be.

14 **JUROR NO. 6:** Those are auditors who go and videotape
15 and record mostly public buildings to see how government
16 will respond to it. Frequently police officers respond.

17 **MS. COSTANTIN:** Okay. So they're videotaping a
18 building and then they see if the police respond to it?

19 **JUROR NO. 6:** That's right. They stay in a public
20 place where it's legal to video but then they want us to
21 test how government agency responds.

22 **MS. COSTANTIN:** Responds to it. And I'm -- don't
23 recall exactly what your words are, but you said that you
24 felt that would prevent you from being fair or -- explain to
25 me what --

1 **JUROR NO. 6:** I'm familiar with this case from the
2 news, and so given that I've seen these videos and I see
3 police officers behave badly, I thought that should be
4 known. I can try to be unbiased but it may influence me.

5 **MS. COSTANTIN:** I understand. You also indicated that
6 you had seen news coverage of it. Do you recall what news
7 coverage you've seen of the case?

8 **JUROR NO. 6:** Source or what I've seen?

9 **MS. COSTANTIN:** What you've -- well, source as well as
10 what you've seen.

11 **JUROR NO. 6:** I know this is the retrial. I believe
12 some of the officers pled guilty that were part of it. Does
13 that help?

14 **MS. COSTANTIN:** Yeah. Do you remember any other
15 coverage, besides that, that you saw? We're just trying to
16 understand how much you remember about the case or know
17 about the case.

18 **JUROR NO. 6:** I know that Mr. Hall was undercover at
19 the protest and that he was assaulted by some police
20 officers. He was -- I think he was video recording, much
21 like a First Amendment auditor would do.

22 **MS. COSTANTIN:** The information that you've seen about
23 the case, would you be able to set that aside and judge the
24 case only as the evidence that comes in or do you think you
25 would always know that what you had already heard?

1 **JUROR NO. 6:** I might find it difficult to set it
2 aside.

3 **MS. COSTANTIN:** Okay. Judge, that's all I've got.

4 **THE COURT:** Mr. Rosenblum?

5 **MR. ROSENBLUM:** Because of that, obviously, that could
6 make you a less fair and impartial juror in this case?

7 **JUROR NO. 6:** Yeah. I wanted that to be known.

8 **MR. ROSENBLUM:** Thank you for being candid. Nothing
9 further.

10 **THE COURT:** Okay. Ms. -- where is Ms. Shirley? She's
11 not here.

12 **MR. KILGORE:** I don't have any -- based on the
13 previous questions, Judge, I don't have any questions for
14 him.

15 **THE COURT:** All right. I'm going to excuse you, sir.
16 Thank you so much, Mr. Bredbenner. Thank you for your
17 service. I really appreciate you being here. And it's
18 not -- there's no -- there's nothing bad about saying I'm
19 excusing you. It's just part of the process. It's just
20 difficult to erase some of those things, and I understand.
21 Thank you.

22 *(Juror No. 6 exits courtroom.)*

23 **THE COURT:** For the record, Juror No. 4, Meder, and
24 No. 6, Bredbenner, have been excused.

25 *(Juror No. 14 enters the courtroom.)*

1 **THE COURT:** You may -- that chair's fine. Yes, right
2 there. You may remove your mask, if you care to, so that
3 you can be heard more. Thank you for coming back in.

4 **MS. COSTANTIN:** Hi. We just had some questions for
5 you about your knowledge of the news coverage on the case.
6 What do you remember -- or, first of all, where was the news
7 coverage? What were you watching, or -- was it TV, radio,
8 do you remember? Newspaper?

9 **JUROR NO. 14:** I was watching it on the news or one of
10 my kids was saying something about it and --

11 **MR. ROSENBLUM:** So you said your kids?

12 **MS. COSTANTIN:** One of her kids was saying something.

13 **JUROR NO. 14:** My kids were saying something.

14 **MS. COSTANTIN:** Okay. And what is it that you recall
15 about the case?

16 **JUROR NO. 14:** Just that things got out of hand, I
17 guess, and one of the police officers -- I don't know if he
18 detained him or what, but made the other guy -- there was
19 some kind of confrontation is what I want to say,
20 confrontation that -- on the scene. I don't know.

21 **MS. COSTANTIN:** Do you remember when it was that you
22 heard this news coverage? Was it, you know, recently, like
23 within the last week or month or years ago?

24 **JUROR NO. 14:** No, it's been --

25 **COURT REPORTER:** I can't hear you. I'm sorry.

1 **JUROR NO. 14:** It was just a confrontation that got
2 out of hand as far as I understood from the news. It just
3 looked like it was -- people just everywhere and -- I don't
4 know.

5 **MS. COSTANTIN:** And you said it's been sometime since
6 you heard that; correct, since you heard the information,
7 so --

8 **JUROR NO. 14:** That's correct, yes.

9 **MS. COSTANTIN:** Judge, if I may, just there's a couple
10 other questions unrelated to this I can ask this juror just
11 to move through it quickly, other issues.

12 **THE COURT:** Sure.

13 **MS. COSTANTIN:** You indicated in your questionnaire
14 that your ex-husband had been arrested for theft or drugs
15 and that your soon-to-be ex-son-in-law had been arrested for
16 theft or forgery; is that right?

17 **JUROR NO. 14:** Yes.

18 **MS. COSTANTIN:** Is there anything about that that
19 would prevent you from being fair as a juror, fair and
20 impartial as a juror?

21 **JUROR NO. 14:** I don't really know. I mean, what do
22 you mean by that? I mean, seriously, it happened. They did
23 wrong.

24 **MS. COSTANTIN:** And that's my question. I'm not
25 saying you should be unfair. What I'm just saying is, if

1 you had a particularly bad experience or they had a
2 particularly bad experience and you would hold that against
3 police officers, for example?

4 **JUROR NO. 14:** I don't hold anything against them. It
5 wasn't their fault.

6 **MS. COSTANTIN:** Okay. So basically what you're saying
7 is that they -- we were talking about your ex-husband as
8 well as the son-in-law, that they did the crime, you feel
9 that justice was done; is that fair? Or am I putting words
10 in your mouth?

11 **JUROR NO. 14:** They goofed up. I mean I know heroin,
12 it is an addiction and it is something he couldn't help, and
13 I know he was arrested for it many different times on that
14 while he was doing it, but I don't blame the police for it.

15 **MS. COSTANTIN:** Okay. That's another thing. Would
16 you bring any of your knowledge of that for some reason into
17 this case? You wouldn't be thinking for some reason when
18 you're listening to evidence in this case that had anything
19 at all to do with what involved your relatives?

20 **JUROR NO. 14:** With them? No. Truthfully, I don't
21 think that I can be objective.

22 **MS. COSTANTIN:** And why do you say that?

23 **JUROR NO. 14:** Well, if you're in a crowd of people
24 and somebody's coming at you, aren't you going to take
25 action to defend yourself?

1 **MS. COSTANTIN:** Okay. So the way you remember this
2 case, the coverage, you remember this case involved an
3 officer being assaulted and --

4 **JUROR NO. 14:** No. They were trying to -- as far as I
5 remember, they were trying to keep order; right?

6 **MS. COSTANTIN:** Okay.

7 **JUROR NO. 14:** No?

8 **MS. COSTANTIN:** Well, I can't talk about the evidence.
9 I'm not permitted to talk about the evidence, so --

10 **JUROR NO. 14:** I don't know either. I mean from what
11 I remember, in any kind of situation the police are trying
12 to keep order and so the citizens stay back, don't get hurt,
13 nothing else. And so, to be honest, if somebody is not
14 acting the way they should be, shouldn't -- they should
15 react.

16 **MS. COSTANTIN:** Okay. So what you remember is that
17 this involved the police trying to keep order and someone
18 not complying, and then basically what you're saying is
19 there's consequences for not complying?

20 **JUROR NO. 14:** I guess.

21 **MS. COSTANTIN:** Okay. And is that an opinion that you
22 feel pretty strongly about?

23 **JUROR NO. 14:** You have to obey the law.

24 **MS. COSTANTIN:** Okay. And is that -- your feelings
25 about that and what you know about this case, would you be

1 able to set that aside and say, *No, never mind about that.*
2 *I'm just going to listen to the evidence as it comes in*
3 *court, or are you going to be able -- you're still going to*
4 *have those feelings?*

5 **JUROR NO. 14:** I'm probably still going to.

6 **THE COURT:** I didn't hear. What was the answer?

7 **JUROR NO. 14:** I'm sorry. I think I would probably
8 be -- there's laws for a reason.

9 **MS. COSTANTIN:** So you're still going to have those
10 feelings about what your information was about the case
11 irregardless of what the evidence -- what you hear?

12 **JUROR NO. 14:** Yeah, just like my husband and
13 son-in-law.

14 **MS. COSTANTIN:** Judge, I don't have anything else.

15 **THE COURT:** You may inquire, Mr. Rosenblum.

16 **MR. ROSENBLUM:** Good morning, Ms. Whitworth.

17 **JUROR NO. 14:** Good morning.

18 **MR. ROSENBLUM:** I just have a few questions. My
19 understanding is, whatever you heard or think you heard
20 about this case through whatever source was quite a while
21 ago?

22 **JUROR NO. 14:** Uh-huh.

23 **MR. ROSENBLUM:** I think you said you heard from the --
24 was it the TV news or the newspaper, Facebook?

25 **JUROR NO. 14:** I'm thinking it was on the TV.

1 **MR. ROSENBLUM:** Okay. Well, would you agree with me
2 that not everything you hear in the news is accurate?

3 **JUROR NO. 14:** Of course.

4 **MR. ROSENBLUM:** Okay. And the judge has already
5 informed you that you're only to decide this case based on
6 the evidence that you actually hear in this courtroom and
7 the law that His Honor will read to you at the close of the
8 case. Does that make sense?

9 **JUROR NO. 14:** [No audible answer.]

10 **MR. ROSENBLUM:** If the evidence you hear in this
11 courtroom is different than what you believe you recall from
12 the news, would you be able to set that aside and decide
13 this case just on what you hear in the courtroom?

14 **JUROR NO. 14:** Truthfully, I don't know. I don't know
15 if I can actually say that -- which way I would say it.

16 **MR. ROSENBLUM:** Which way?

17 **JUROR NO. 14:** I don't know.

18 **MR. ROSENBLUM:** Let me ask you this: When you heard
19 it, through whatever source -- and I think you said you
20 spoke with your kids -- you recall having an opinion about
21 it one way or the other? Did you form an opinion? Did you
22 share an opinion?

23 **JUROR NO. 14:** I don't remember.

24 **MR. ROSENBLUM:** Difficult to remember? Okay. And --
25 I'm sorry?

1 **JUROR NO. 14:** I usually don't get into confrontations
2 of right and wrong and yes and no. It's just whatever.

3 **MR. ROSENBLUM:** All right. I guess at the end of the
4 day can you listen to this evidence with an open mind, just
5 hear what everybody has to say?

6 **JUROR NO. 14:** I can try but I don't know if I'm --

7 **MR. ROSENBLUM:** I mean you haven't heard any evidence;
8 right?

9 **JUROR NO. 14:** I have not heard any evidence, but then
10 again --

11 **MR. ROSENBLUM:** You can agree with me that whatever
12 evidence you hear in this courtroom may have nothing to do
13 with what you believe you've heard several years ago; would
14 that be fair?

15 **JUROR NO. 14:** True, but you just -- I don't know. I
16 just don't feel that I can say yes.

17 **THE COURT:** I can't hear you. "I don't feel" what?

18 **JUROR NO. 14:** I just don't feel like I'm able to say
19 yes or no to any of the -- if it's right or if it's wrong.
20 I wasn't in the situation for what was going on, so how can
21 you judge something that --

22 **MR. ROSENBLUM:** I mean that's fair, but --

23 **JUROR NO. 14:** I don't think I'm able to do that.

24 **MR. ROSENBLUM:** But, understand, we're not just going
25 to throw you in in the abstract. You're going to hear the

1 evidence, the witnesses are going to testify, and then the
2 Court's going to instruct you how to weigh that evidence,
3 okay? Do you think you could do that?

4 **JUROR NO. 14:** Truthfully, I don't know.

5 **MR. ROSENBLUM:** Okay.

6 **JUROR NO. 14:** I don't know if I can give you an
7 honest answer on which way I would go with that.

8 **MR. ROSENBLUM:** Okay. Thank you.

9 **JUROR NO. 14:** I'm sorry.

10 **THE COURT:** Thank you. Counsel, come up, please.

11 * * * *

12 (*Discussion held at sidebar between the Court and*
13 *counsel as follows:)*

14 **THE COURT:** She seemed very evasive. She didn't
15 answer Scott's last question whether she could do it or not.
16 She just didn't know. I'm inclined to excuse her. I was
17 not going to until that. Okay.

18 (*End of discussion at sidebar.)*

19 * * * *

20 **THE COURT:** Thank you so much for your participation
21 in this case so far, your truthfulness. I really appreciate
22 it. So the clerk will help you go out this way. Thank you.

23 (*Juror No. 14 exits the courtroom; Juror No. 18 enters*
24 *the courtroom.)*

25 **THE COURT:** You may remove your mask for the -- during

1 this questioning if you care to, or you're not required to,
2 but it's up to you. Thank you. You may inquire.

3 **MS. COSTANTIN:** We just have questions for you about
4 what you saw on the news. You said you've seen this case on
5 the news. Do you recall when it was you saw it, what you
6 saw, what news source you saw?

7 **JUROR NO. 18:** Well, it was just on like the evening
8 news that I saw it. When I came in I recognized one of the
9 gentlemen in the courtroom and it got my brain clicking.

10 **MS. COSTANTIN:** Okay. And what specifically do you
11 remember about the stories that you saw on the news?

12 **JUROR NO. 18:** Well, I know it's -- they were accused
13 of hurting an undercover police officer and they had already
14 gone to trial before and it's being retried.

15 **MS. COSTANTIN:** Okay. And do you remember any of the
16 details of the evidence?

17 **JUROR NO. 18:** I just remember seeing Mr. Hall sitting
18 on the curb, beaten up pretty badly.

19 **MS. COSTANTIN:** So that's things that you remember
20 about the case. In order to be a juror on this case you
21 would have to be able to set aside what you already know and
22 only judge the case based on the evidence that you heard
23 here in the courtroom.

24 **JUROR NO. 18:** Right.

25 **MS. COSTANTIN:** Are you going to be able to do that or

1 are you always going to know other things outside of --

2 **JUROR NO. 18:** That's my conflict. I'm not sure that
3 I can do that.

4 **MS. COSTANTIN:** Okay.

5 **JUROR NO. 18:** To be perfectly honest.

6 **MS. COSTANTIN:** And that's what we ask is just your
7 honesty. Okay.

8 **JUROR NO. 18:** I'm just being honest.

9 **MS. COSTANTIN:** Let me go to another -- maybe I have
10 this wrong, but I also had a notation that you could not
11 keep the Floyd case out of your mind.

12 **JUROR NO. 18:** Correct.

13 **MS. COSTANTIN:** Okay. What does that mean?

14 **JUROR NO. 18:** Well, it's me, as an older person,
15 having a lot of conflict at the way things are going in our
16 society with law enforcement and people. I have never
17 participated in any kind of, you know, protest or any of
18 that kind, would never do that. But I do feel like there is
19 some disparity that needs to be looked at, and I just have a
20 lot of conflicts with what I've already known all these
21 years and what I'm seeing on TV. It's made me start
22 thinking about things and it's causing a conflict.

23 **MS. COSTANTIN:** Okay. And your thoughts about those
24 things, how you're perceiving law -- it sounds to me like
25 you're perceiving law enforcement differently now than you

1 traditionally have; is that fair or am I --

2 **JUROR NO. 18:** Correct. Not necessarily in a bad way.
3 You know, I respect the police. I have -- you know, I know
4 they're needed, but I do believe that they're not always in
5 the right in the things that they do.

6 **MS. COSTANTIN:** Your feelings about that and your
7 talking about keeping -- not being able to keep the Floyd
8 case out of your head, is that going to prevent you -- do
9 you believe that would prevent you from being a fair and
10 impartial juror on this case?

11 **JUROR NO. 18:** It's possible, yes. It's just -- it's
12 just something that I -- it's hard to get out of your mind.

13 **MS. COSTANTIN:** I understand. Okay. Judge, that's
14 all I've got.

15 **JUROR NO. 18:** It was very disturbing.

16 **MR. ROSENBLUM:** No questions.

17 **THE COURT:** All right. Thank you.

18 Thank you so much for your service in this case.
19 You're going to be excused, and it's not a bad thing. It's
20 just, you know, you're subjected to this evidence, and so
21 you answered truthfully, and we all appreciate it. Thank
22 you.

23 **JUROR NO. 18:** Well, that's fine. I just want to make
24 sure that, you know, everybody gets a fair chance.

25 *(Juror No. 18 exits the courtroom.)*

1 **THE COURT:** Before we take a brief recess for the
2 benefit of counsel and others in the courtroom, can we get
3 through these next few? Okay.

4 **(Juror No. 25 enters the courtroom.)**

5 **THE COURT:** Thank you, sir. All right. You may
6 inquire.

7 **MS. COSTANTIN:** You had indicated that you had seen
8 some news coverage about the case; is that right?

9 **JUROR NO. 25:** Correct.

10 **MS. COSTANTIN:** Can you tell us where that news
11 coverage was from, first of all? Do you recall?

12 **JUROR NO. 25:** Local NBC.

13 **MS. COSTANTIN:** Okay. TV?

14 **JUROR NO. 25:** Yes.

15 **MS. COSTANTIN:** And how recent was that?

16 **JUROR NO. 25:** This morning.

17 **MS. COSTANTIN:** Okay. I didn't know there was
18 anything this morning. What do you recall about what you
19 saw this morning?

20 **JUROR NO. 25:** It was basically they're bringing up
21 that the officers are being brought back to trial for --
22 being retried, and the media -- what bothered me was that
23 they made it a point that it was two white officers
24 attacking a black officer.

25 **MS. COSTANTIN:** And why did that bother you?

1 **JUROR NO. 25:** Just the tensions that have -- in the
2 environment these days.

3 **MS. COSTANTIN:** That that would cause more tension by
4 talking about that or just that it bothered you that that's
5 what had happened?

6 **JUROR NO. 25:** Both. Both.

7 **MS. COSTANTIN:** Okay. Was there any -- other than
8 what you've told us, do you recall any other details about
9 the coverage, any information about the case itself, what
10 actually occurred?

11 **JUROR NO. 25:** No.

12 **MS. COSTANTIN:** Other than this morning, the coverage
13 this morning, do you recall seeing any other news coverage?

14 **JUROR NO. 25:** I knew of it when it happened.

15 **MS. COSTANTIN:** And what is it that you recall about
16 it when it happened?

17 **JUROR NO. 25:** Just that an undercover police officer
18 was assaulted, beaten.

19 **MS. COSTANTIN:** And either with this news coverage or
20 the more recent news coverage, would you be able to set that
21 aside as you listen to the evidence as you hear it in court
22 or would you always have that information in your mind?

23 **JUROR NO. 25:** It's hard for it to escape my mind but
24 I would do my best to --

25 **MS. COSTANTIN:** Okay. Judge, I don't have anything

1 more.

2 **THE COURT:** Thank you. You may inquire,
3 Mr. Rosenblum.

4 **MR. ROSENBLUM:** So the recent news coverage was this
5 morning; correct?

6 **JUROR NO. 25:** [Nodding head.]

7 **MR. ROSENBLUM:** And that was on television news?

8 **JUROR NO. 25:** Yes.

9 **MR. ROSENBLUM:** And you mentioned something that the
10 officers are being retried?

11 **JUROR NO. 25:** Yes.

12 **MR. ROSENBLUM:** And it seemed to have a racial
13 component; correct?

14 **JUROR NO. 25:** Correct.

15 **MR. ROSENBLUM:** Now, when you heard that, did you
16 personally form any opinions about it?

17 **JUROR NO. 25:** No. I just thought, this is why I'm
18 going to be called in.

19 **MR. ROSENBLUM:** Have you had any discussions about
20 what you heard this morning or in the past what you heard
21 with anybody?

22 **JUROR NO. 25:** No.

23 **MR. ROSENBLUM:** Prior to this morning's news coverage
24 do you recall forming any opinions about what you had heard
25 in the past?

1 **JUROR NO. 25:** No.

2 **MR. ROSENBLUM:** So, a couple things. You mentioned a
3 retrial, okay?

4 **JUROR NO. 25:** Yes.

5 **MR. ROSENBLUM:** I would anticipate that the Court is
6 going to instruct the lawyers not to mention that this case
7 had been tried, and no verdicts -- or whatever verdicts had
8 been reached in the past. You have that knowledge that
9 other jurors may not. Does that cause -- did you form any
10 opinions about the fact that this is a second trial or
11 retrial?

12 **JUROR NO. 25:** No.

13 **MR. ROSENBLUM:** Did you hold any -- would you hold
14 that against Mr. Myers or the other officer on trial?

15 **JUROR NO. 25:** [No audible answer.]

16 **MR. ROSENBLUM:** Do you have any opinion about retrials
17 generally?

18 **JUROR NO. 25:** I do not.

19 **MR. ROSENBLUM:** Okay. And with respect to what you
20 heard with respect to the racial component, I think you said
21 that bothered you specifically and generally?

22 **JUROR NO. 25:** Yeah. I -- I don't know. I don't
23 see --

24 **MR. ROSENBLUM:** I'm sorry?

25 **JUROR NO. 25:** I'm trying to express what I'm

1 thinking. There are race issues out there but I think
2 it's -- I think it's being, in some instances,
3 hyperexaggerated in some instances.

4 **MR. ROSENBLUM:** Okay. Did you form any opinion --
5 when you heard what you considered racial underpinnings in
6 this case, did you form any opinions about how you would
7 feel about sitting on this case?

8 **JUROR NO. 25:** No.

9 **MR. ROSENBLUM:** And I guess ultimately what we look
10 for is whether or not a juror can unring the bell what they
11 heard, okay?

12 **JUROR NO. 25:** Uh-huh.

13 **MR. ROSENBLUM:** Because, as the Court has instructed
14 you, if you're selected as a juror in this case you're going
15 to be asked to set aside anything that you may have heard,
16 recognizing that what you may have heard may be completely
17 wrong in the media, and decide this case just on the
18 evidence that you hear and the law that His Honor will give
19 to you at the close of the case, and decide that completely
20 impartially for both sides. Can you do that?

21 **JUROR NO. 25:** I believe I can.

22 **MR. ROSENBLUM:** You mention the environment out there.

23 **JUROR NO. 25:** Yes.

24 **MR. ROSENBLUM:** And it would be naive of any of us to
25 not recognize a shift in the environment, that some may be,

1 obviously, rightfully so. But my question to you, sir,
2 Mr. -- is it Gierer?

3 **JUROR NO. 25:** Yes.

4 **MR. ROSENBLUM:** As you sit here, if you're selected as
5 a juror, and you listen to the evidence specifically against
6 Christopher Myers, my client, and you determine that the
7 government has failed to make its burden of proof and you
8 determine the appropriate verdict with respect to Mr. Myers
9 would be not guilty, do you think you would be free in your
10 mind to enter that verdict without regard to how you feel
11 you may have to answer to other individuals, society?

12 **JUROR NO. 25:** Yes.

13 **MR. ROSENBLUM:** Even if you feel it may be an
14 unpopular verdict?

15 **JUROR NO. 25:** Yes.

16 **MR. ROSENBLUM:** You would do what your conscience
17 dictates you to do?

18 **JUROR NO. 25:** I would hope so, yes.

19 **MR. ROSENBLUM:** Lawyers are in a precarious position,
20 "I would hope so." We're not supposed to ask for
21 commitment, but understand a couple of things, sir. This is
22 the only time as lawyers we have a chance to talk to you
23 about what's going on with you, okay? We can't stop you in
24 the elevator and ask if you reconsidered this. So although
25 we're not supposed to ask for commitment, you have -- I'm

1 asking you whether or not you can assure His Honor that you
2 would decide this case just on the evidence that you hear
3 and the instructions that His Honor will give to you at the
4 close of the case and do what your conscience tells you to
5 do, regardless of any outside influences?

6 **JUROR NO. 25:** Yes.

7 **MR. ROSENBLUM:** And regardless of what you may or may
8 not think you heard on the outside?

9 **JUROR NO. 25:** Yes.

10 **MR. ROSENBLUM:** And if you determine, for instance,
11 that race had nothing to do with it, would you feel free to
12 form that opinion despite what the news media may have said?

13 **JUROR NO. 25:** Yes.

14 **MR. ROSENBLUM:** Thank you.

15 **THE COURT:** Could I see counsel, please.

16 * * * *

17 *(Discussion held at sidebar between the Court and
18 counsel as follows:)*

19 **THE COURT:** First, Carrie.

20 **MS. COSTANTIN:** Judge, honestly, I'm kind of split on
21 this. With me he had said that he would do his best to set
22 aside the information but it would be hard. The biggest
23 problem I have is that he knows it's a retrial. That's the
24 biggest problem I have, frankly, and I think that's a bad
25 idea to have somebody who knows it's a retrial.

1 **MR. ROSENBLUM:** You know, my initial impression was
2 the same as Ms. Costantin, but after questioning him I think
3 we could count on him to put that aside and also not mention
4 it to other jurors. You may want to follow up if you decide
5 to keep him with respect to -- if he's selected, with
6 respect to the information about a retrial, to please not
7 share it with any other prospective jurors.

8 **THE COURT:** Okay. I think that's what I'll do. My
9 inclination was not to excuse him at this time.

10 *(End of discussion at sidebar.)*

11 * * * *

12 **THE COURT:** I want to instruct you, sir, that at no
13 time are you permitted to talk to any other jurors about
14 what happened here while you were being questioned. Are you
15 able to absolutely not discuss that with anyone if you
16 remain on this panel?

17 **JUROR NO. 25:** Yes.

18 **THE COURT:** All right.

19 *(Juror No. 25 exits the courtroom.)*

20 **THE COURT:** I can't send this juror -- the remainder
21 of the jury back to the jury room because the other jurors
22 are down there for the next panel. I'm going to send
23 them -- I'm going to -- Kelley, I want you to keep 27 --

24 **DEPUTY CLERK:** Thirty-one, 32.

25 **THE COURT:** -- 31, 32, and someone said 30. I don't

1 know where that came from, but keep them, but take the rest
2 of them up to 16. That's where they will be. And then --
3 because we're going to have to excuse everyone here for a
4 break and I don't want the jurors standing out there while
5 we're taking a break, okay? Thanks.

6 **DEPUTY CLERK:** Send 27 in, Judge?

7 **THE COURT:** Twenty-seven.

8 *(Juror No. 27 enters the courtroom.)*

9 **DEPUTY CLERK:** Judge, this is 27.

10 **THE COURT:** Thank you for your patience. You may
11 remove your mask for this purpose if you care to.

12 **MS. COSTANTIN:** Sir, we asked you to come back here
13 just because you had indicated you saw news coverage on the
14 case.

15 **JUROR NO. 27:** Yes.

16 **MS. COSTANTIN:** What was that? Was that TV, internet?

17 **JUROR NO. 27:** Local news, some on the internet, and
18 whatever else that was on.

19 **MS. COSTANTIN:** Okay. And was that -- how recently
20 was that?

21 **JUROR NO. 27:** Probably right when it happened.

22 **MS. COSTANTIN:** Okay. All right. What do you recall
23 about the case or what news coverage that you saw about the
24 case?

25 **JUROR NO. 27:** Just they showed video of it.

1 **MS. COSTANTIN:** They showed video of what? I'm sorry.

2 **JUROR NO. 27:** Just the video of it from what they had
3 on the news.

4 **MR. ROSENBLUM:** I'm sorry. What did you say?

5 **MS. COSTANTIN:** Video of it, what they had on the
6 news.

7 Do you recall what the video showed or anything like
8 that?

9 **JUROR NO. 27:** Not really.

10 **MS. COSTANTIN:** Okay. Did you -- what at all do you
11 remember about the case?

12 **JUROR NO. 27:** Just that they said that there was an
13 undercover cop and the other ones didn't know it. They beat
14 him a little bit.

15 **MS. COSTANTIN:** Okay. All right. And you haven't
16 heard anything about it since back when it happened, back --

17 **JUROR NO. 27:** Right.

18 **MS. COSTANTIN:** Okay. All right. Would you be able
19 to set aside what you've heard and base your verdict -- or
20 listen to the evidence in court and base your verdict only
21 on what you hear in court?

22 **JUROR NO. 27:** I believe I could.

23 **MS. COSTANTIN:** Okay. At the time that it happened
24 what did you think about it? When you heard the coverage
25 what were you thinking about it?

1 **JUROR NO. 27:** That all the riots are stupid.

2 **MS. COSTANTIN:** That all the riots are stupid?

3 **JUROR NO. 27:** Yep.

4 **MS. COSTANTIN:** Okay. All right. And in what way?

5 Like that happened and --

6 **JUROR NO. 27:** Just what they were doing, just the
7 violence, the looting, burning. You're tearing up your own
8 neighborhood just so you can tell everybody that you tore it
9 up, and it doesn't make sense to me.

10 **MS. COSTANTIN:** And what did you think about it as far
11 as the -- what happened with the undercover cop?

12 **JUROR NO. 27:** Thought it was kind of stupid.

13 **MS. COSTANTIN:** What was stupid? What part was
14 stupid?

15 **JUROR NO. 27:** Just the video I seen of it was like
16 they were holding him down and whatever else was going on
17 with it. Didn't look like they needed to.

18 **MS. COSTANTIN:** So the stupid part was that they were
19 holding him down and they didn't need to?

20 **JUROR NO. 27:** Right. That's kind of what I gathered
21 out of it anyway.

22 **MS. COSTANTIN:** At the time when this all was
23 happening were you -- did you talk to folks about what your
24 thoughts were about all of that?

25 **JUROR NO. 27:** It was all just kind of stupid stuff.

1 **MS. COSTANTIN:** Okay. But what I'm saying is, did you
2 talk to other people about that, that you thought it was
3 stupid? And did they share your opinion?

4 **JUROR NO. 27:** Yeah, a lot of them did. A lot of them
5 are friends.

6 **MS. COSTANTIN:** Okay. And in regards to what happened
7 with the undercover police officer, did you talk to them
8 about that, too?

9 **JUROR NO. 27:** I don't remember if we talked about
10 that one or not. It was mainly just the riots in general.

11 **MS. COSTANTIN:** Okay. And your thoughts about what
12 happened back at that time, is that always going to be in
13 your head about the news coverage you saw about what was
14 going on when you're listening to the evidence as it comes
15 in here?

16 **JUROR NO. 27:** It would probably -- I can't really say
17 what I would do because it would be one thing -- or be
18 thinking about everything I seen, which was all the riots
19 and all the burning and everything else, and then listening
20 to the evidence would be another section of it to where I
21 would listen to it to see what was going on.

22 **MS. COSTANTIN:** Okay. And you'd listen to it and see
23 what was going on, but while you're listening to the
24 evidence in here would you also be thinking about, yeah,
25 well, I know -- I remember all that other stuff that they're

1 not talking about, all these other things that were
2 happening during that time?

3 **JUROR NO. 27:** It might be in the back of my mind but
4 not real vivid, let's put it that way.

5 **MS. COSTANTIN:** I'm sorry. I missed the last part of
6 what you said.

7 **JUROR NO. 27:** It wouldn't be real vivid. It would
8 just be in the back of my mind.

9 **MS. COSTANTIN:** Okay. Judge, I don't have anything
10 more.

11 **THE COURT:** All right. Mr. Rosenblum?

12 **MR. ROSENBLUM:** I'm sorry, Mr. Owens. I missed that
13 last part. It wouldn't be real what?

14 **JUROR NO. 27:** It wouldn't be real vivid in my mind.

15 **MR. ROSENBLUM:** So, as I understand, you remember some
16 news coverage some time ago; right?

17 **JUROR NO. 27:** Right.

18 **MR. ROSENBLUM:** I think what generally what you had
19 referred to is riots; right?

20 **JUROR NO. 27:** Yes.

21 **MR. ROSENBLUM:** And I think you indicated that you
22 generally have an opinion about riots, and I think that's
23 fair. Would you also agree that riots sometimes can be
24 different than peaceful protesting?

25 **JUROR NO. 27:** Right.

1 **MR. ROSENBLUM:** So the key to this case is whether or
2 not you can set aside what you've heard, basically leave it
3 outside the door, and decide this case just on the evidence
4 that you hear from the witness stand and the law that His
5 Honor will give to you at the end of the case on how to
6 consider that evidence. Do you believe you can do that?

7 **JUROR NO. 27:** I think I can.

8 **MR. ROSENBLUM:** And I think all of us certainly want
9 to be fair, and it's important, you would agree, for the
10 government to get a fair trial and decide this case just
11 based on the evidence they present, and equally important
12 for Mr. Myers and the other officer to get a fair trial as
13 well; correct?

14 **JUROR NO. 27:** Yes.

15 **MR. ROSENBLUM:** Would you agree with me that the only
16 way that's possible is to decide this case just on the
17 evidence that you hear from the courtroom?

18 **JUROR NO. 27:** Yes.

19 **MR. ROSENBLUM:** You would also agree -- do you also
20 agree that what you hear in the news media may not be
21 accurate?

22 **JUROR NO. 27:** Most definitely.

23 **MR. ROSENBLUM:** Most definitely. So the only fair way
24 would be to decide this case just on what you hear in the
25 courtroom; right?

1 **JUROR NO. 27:** Yes.

2 **MR. ROSENBLUM:** And how His Honor will instruct you on
3 how to consider that evidence?

4 **JUROR NO. 27:** Yes.

5 **MR. ROSENBLUM:** And do you believe -- as you sit here
6 now can you commit to the Court that you will decide this
7 case fairly and impartially for both sides just on what you
8 hear in this courtroom?

9 JUROR NO. 27: Yes.

10 **MR. ROSENBLUM:** And you can say that without
11 hesitation?

12 || **JUROR NO. 27:** Yes.

MR. ROSENBLUM: Thank you, sir.

14 **THE COURT:** Does counsel want to be heard?

15 MS. COSTANTIN: Judge, we can approach.

16 || * * * *

*(Discussion held at sidebar between the Court and
counsel as follows:)*

19 **MS. COSTANTIN:** I don't think there's a basis to
20 strike him for cause.

21 **THE COURT:** Yeah, I agree. Thank you.

22 || *(End of discussion at sidebar.)*

23 || * * * *

24 **THE COURT:** When you return, you'll be going up --
25 escorted upstairs to the ninth floor with the other jurors.

1 Will you promise me that you will not talk to the jurors
2 about anything that happened here, anything -- any views
3 that were expressed by you?

4 **JUROR NO. 27:** Yes.

5 **THE COURT:** All right. Thank you, sir.

6 **(Juror No. 27 exits the courtroom; Juror No. 31 enters**
7 **the courtroom.)**

8 **MS. COSTANTIN:** We asked you to come back in just to
9 ask about news coverage, okay? What is it that you recall
10 about the -- first of all, where did you hear it, when did
11 you hear it, what did you hear?

12 **JUROR NO. 31:** Well, unfortunately, I read it this
13 morning on the front page of the Post-Dispatch.

14 **MS. COSTANTIN:** Okay. And what is it that was -- I
15 did not see the paper this morning. What is it that you
16 recall about the coverage?

17 **JUROR NO. 31:** Well, I recall that there was
18 discussion about --

19 **THE COURT:** Would you hold that microphone right up
20 there.

21 **JUROR NO. 31:** I'm sorry. There was discussion about
22 what the jury vote had been in the previous trial. One was
23 6/6 and one was 10/2. There was also some discussion that
24 there was going to be new -- I believe I'm correct in saying
25 this -- new evidence that was going to be allowed in this

1 jury -- in this -- this time around that wasn't involved the
2 last time. There was also some information that one of the
3 defendants in this may have made some statements that could
4 be pretty prejudicial, I would think. So, I mean that's --

5 **MS. COSTANTIN:** That's what you recall?

6 **JUROR NO. 31:** This is what I recall. I was actually
7 just skipping the thing just -- and then I saw that they
8 were going to impanel a jury today, and I went, oh, God.

9 **MS. COSTANTIN:** Can you hold on one second, sir.

10 *(Attorneys conferring off the record.)*

11 **MS. COSTANTIN:** Judge, could we approach?

12 **THE COURT:** Sure.

13 * * * *

14 *(Discussion held at sidebar between the Court and
15 counsel as follows:)*

16 **MS. COSTANTIN:** We're just going to cut to the chase
17 and agree that he should be gone. He knows the votes and
18 everything.

19 **MR. ROSENBLUM:** Yeah.

20 **THE COURT:** Excused.

21 *(End of discussion at sidebar.)*

22 * * * *

23 **THE COURT:** I want to make sure you understand how
24 much we appreciate you being here. The process is designed
25 to just -- you know, when someone has the information you

1 have -- it's not like you did anything wrong, you just read
2 the paper, but that could complicate things. So you'll be
3 excused, but not because of anything you did improperly.
4 You understand?

5 **JUROR NO. 31:** Yes, I understand. I'm sorry. If I
6 had noticed -- you know, I didn't notice it until it was too
7 late and I'd already read it. And I went, oh, not good.
8 But, anyway, so I'm -- am I done?

9 **DEPUTY CLERK:** Yeah. I'll take you down to the jury
10 room.

11 *(Juror No. 31 exits the courtroom; Juror No. 32 enters
12 the courtroom.)*

13 **THE COURT:** You may remove your mask. And would you
14 please use the microphone so we can hear clearly. Thank you
15 very much.

16 **MS. COSTANTIN:** Ma'am, we're -- you were asked to come
17 in because you indicated that you participated in a protest;
18 is that correct?

19 **JUROR NO. 32:** Yes.

20 **MS. COSTANTIN:** Could you tell us what that protest
21 was about and when it was?

22 **JUROR NO. 32:** It was the Black Lives Matter protest
23 that was last summer here in St. Louis, downtown.

24 **MS. COSTANTIN:** Okay. Now, you know the bare minimum
25 about this case right now. Well, let me ask you this: Had

1 you heard any news coverage of this case based on what the
2 judge told you about this case?

3 **JUROR NO. 32:** I'm really bad with dates so I'm not
4 sure.

5 **MS. COSTANTIN:** Okay. Let me just ask you this: The
6 fact that you were involved in a Black Lives Matter protest,
7 would that prevent you from being a fair and impartial juror
8 in this case?

9 **JUROR NO. 32:** I do not believe so. I will look at
10 the evidence and --

11 **MS. COSTANTIN:** Would you be able to base your
12 decision solely on the evidence, which is what the witnesses
13 say and the physical evidence that comes in?

14 **JUROR NO. 32:** Yes.

15 **MS. COSTANTIN:** Okay. You indicated also, I
16 believe -- I'm not sure -- that you might have raised your
17 hand on the question of not being able to keep the Floyd
18 case out of your mind?

19 **JUROR NO. 32:** Yes.

20 **MS. COSTANTIN:** Do you understand that, to belabor the
21 obvious, that the Floyd case has nothing to do with this
22 case?

23 **JUROR NO. 32:** Yes, right.

24 **MS. COSTANTIN:** Would you be able to decide this case
25 only on the evidence that you see in this case?

1 **JUROR NO. 32:** Yes, correct.

2 **MS. COSTANTIN:** So the fact that you know about the
3 Floyd case and you're always going to know about the Floyd
4 case, is that going to prevent you from being fair in this
5 case?

6 **JUROR NO. 32:** No.

7 **MS. COSTANTIN:** Judge, I don't have anything more.

8 **MR. ROSENBLUM:** Good morning, Ms. Green.

9 **JUROR NO. 32:** Good morning.

10 **MR. ROSENBLUM:** So this last summer, was that the only
11 protest that you engaged in?

12 **JUROR NO. 32:** Yes.

13 **MR. ROSENBLUM:** That was the Black Lives Matter
14 protest?

15 **JUROR NO. 32:** Yes.

16 **MR. ROSENBLUM:** Can I ask, if I may: Was it on one
17 occasion or multiple occasions?

18 **JUROR NO. 32:** It was just the one.

19 **MR. ROSENBLUM:** You said with respect to this case --
20 do you recall any details about this case at all?

21 **JUROR NO. 32:** No.

22 **MR. ROSENBLUM:** And you said that you can't keep the
23 Floyd -- you may not be able to keep the Floyd case out of
24 your mind. Can you explain, if you could, what do you mean
25 by that?

1 **JUROR NO. 32:** Just the fact that a cop killed an
2 innocent man. That's always in the back of my mind.

3 **MR. ROSENBLUM:** And, obviously, I think it was
4 disturbing for all of us, and it was particularly disturbing
5 for you, which caused you to protest for the first time in
6 your life?

7 **JUROR NO. 32:** Yes.

8 **MR. ROSENBLUM:** So you've had these strong feelings
9 about the Floyd case, I would assume for quite a while, as
10 you sit here now; right?

11 **JUROR NO. 32:** Yes.

12 **MR. ROSENBLUM:** We can tell you what the evidence is
13 going to be, but if you hear evidence as we go through this
14 case and it causes you to reflect on the Floyd case, do you
15 have any concern that it may spill over?

16 **JUROR NO. 32:** I do not believe so.

17 **MR. ROSENBLUM:** And we hear the words, "I don't
18 believe." Okay? And, again, this is the only opportunity
19 we can speak to you.

20 And, Ms. Green, there's a reason why we basically have
21 90 prospective jurors and we're going to wind up with 12 and
22 some alternates, because we all recognize and the Court
23 recognizes that we all have different life experiences, and
24 some of us can set them aside and some of us can't. It's
25 fair either way. This is the only opportunity I have or the

1 lawyers have to question as to whether or not you can.

2 So, again, the only thing that you know in this case
3 so far is that there are two officers that are charged with
4 different offenses. It's obvious that they're Caucasian
5 officers and I think it's fair to say that the victim in
6 this case is an African-American. With that additional fact
7 and with how you feel about the Floyd case, do you have any
8 concerns now that it may spill over?

9 **JUROR NO. 32:** I do.

10 **MR. ROSENBLUM:** You do have some concerns?

11 **JUROR NO. 32:** Yes.

12 **MR. ROSENBLUM:** Okay. Because it's -- as you would
13 agree, it's difficult to unring the bell of what you hear,
14 right, and how you feel?

15 **JUROR NO. 32:** Yes.

16 **MR. ROSENBLUM:** Especially if you felt that way for a
17 while. And you would agree if that does spill over with
18 those additional facts, that could keep you or probably
19 would keep you from being a completely fair and impartial
20 juror to hear this case?

21 **JUROR NO. 32:** Yes.

22 **MR. ROSENBLUM:** Thank you, ma'am, and thank you for
23 your candor.

24 **MS. COSTANTIN:** Judge, I don't have any other
25 questions. I'm sorry.

1 **THE COURT:** I get to, as a judge, do a lot of things,
2 and one of the things I get to do is to see where people
3 really search their soul, and, you know, you've done that,
4 and we really appreciate everything you said today. And
5 you're going to be excused, not because of anything you did
6 wrong or anything like that, but the process is through --
7 try to get to a point where there can be no doubt about
8 being able to set something aside.

9 So, thank you so much for your answers, and appreciate
10 your service.

11 **(Juror No. 32 exits courtroom.)**

12 **THE COURT:** Somehow there was information that
13 filtered in that 30 may have heard something. I don't know
14 where that came from, how that information came about, but
15 30's detained and 30 will be asked some questions.

16 **(Juror No. 30 enters the courtroom.)**

17 **MS. COSTANTIN:** If you could remove your mask.

18 **THE COURT:** Thank you.

19 **JUROR NO. 30:** Hi.

20 **THE COURT:** You may inquire.

21 **MS. COSTANTIN:** We had information that you thought
22 you knew somebody?

23 **JUROR NO. 30:** Yeah, Kyle Mack. Don't know if it's
24 probably the same person but I had gone to grade school and
25 know some friends who know him.

1 **MS. COSTANTIN:** He's now a police officer. Did you
2 know that? The Kyle Mack you know, did you know --

3 **JUROR NO. 30:** No. I don't know what he's up to.

4 **MS. COSTANTIN:** All right. So the fact that you knew
5 him in grade school, would that prevent you from being fair
6 and impartial?

7 **JUROR NO. 30:** No.

8 **MS. COSTANTIN:** If you heard him as a witness would
9 that have any impact on whether you believed or disbelieved
10 him?

11 **JUROR NO. 30:** No.

12 **MS. COSTANTIN:** Judge, I don't have anything.

13 **THE COURT:** Any questions?

14 **MR. ROSENBLUM:** No, Your Honor.

15 **THE COURT:** All right. Thank you. That's all. Thank
16 you.

17 **MS. COSTANTIN:** I'm sorry. I'm just looking --
18 Mr. Livergood pointed out something to me.

19 You indicated that you might have child care issues,
20 or what was -- on this questionnaire. I'm sorry.

21 **JUROR NO. 30:** No. I just have a three-year-old who I
22 just kind of take to daycare and pick up and everything, so
23 I wasn't too sure on how to answer that question, but, no, I
24 just have a three-year-old that I care for.

25 **MS. COSTANTIN:** But you do have child care for the

1 three-year-old?

2 **JUROR NO. 30:** Correct, he does. He goes to school.

3 **THE COURT:** Thank you very much.

4 **JUROR NO. 30:** All right. Thank you.

5 *(Juror No. 30 exits the courtroom.)*

6 **THE COURT:** Our current situation is that we have this
7 panel for individual questioning and the other panel is
8 ready, and so, obviously, everyone here needs a recess. I'm
9 interested in how long and what your expectations are about
10 bringing the first group back for further questioning.

11 **MS. COSTANTIN:** Judge, generally I would say that my
12 voir dire isn't going to be more than 40 minutes, and it
13 might be less because they did the questionnaires. I don't
14 recall what it was last time.

15 **THE COURT:** Okay. But generally just so -- if we take
16 a 15-minute break now and we bring the first panel back for
17 voir dire, is that -- that's the expectation; correct?

18 **MS. COSTANTIN:** Right.

19 **MR. ROSENBLUM:** Yeah, I would agree. I would
20 anticipate I would be 40 or 45 minutes at the most.

21 **THE COURT:** Yeah, okay. That's fine. And then just
22 the first panel is just going to cool their heels down in
23 the jury assembly room and they can be excused for lunch,
24 but not -- the second panel I'm talking about.

25 The first panel on the ninth floor, would you tell

1 them we're taking a 15-minute break and then we'll bring
2 them back here, okay?

3 **DEPUTY CLERK:** And then the jurors -- second group --

4 **THE COURT:** Second jury can go to lunch and come back
5 later.

6 Okay. Now we're on the same page. I just want to
7 make sure. We're taking a 15-minute break. We're coming
8 back and voir dire the first panel of 30.

9 **MS. COSTANTIN:** Yes, Judge.

10 **MR. ROSENBLUM:** Ms. Costantin and I will go straight
11 through?

12 **THE COURT:** I'm sorry?

13 **MR. ROSENBLUM:** Do you anticipate that Ms. Costantin
14 will do her 40 minutes or so and then I'll follow with my 40
15 minutes or so and then we'll break for lunch?

16 **THE COURT:** Yes. Is that okay?

17 **MR. ROSENBLUM:** That's fine. Whatever the Court
18 wants.

19 **MS. COSTANTIN:** That's fine, Judge. I don't know that
20 I'll be any longer -- all we want to do is make sure that
21 we're not sending the jurors to lunch at 2 o'clock in the
22 afternoon, that's all.

23 **THE COURT:** You'll get whatever time you need. All
24 right. Thank you. We're in recess for 15 minutes.

25 *(Court recessed from 11:10 a.m. to 11:35 a.m.)*

2 **THE COURT:** Ladies and gentlemen, thank you so much
3 for your patience. We do understand how shuffling you
4 around is difficult. I'm sorry we have to do it but it's
5 just a lot of moving parts and want to get it right. Thank
6 you for your patience.

7 One thing I forgot to mention: If you see attorneys
8 in the hall, they're really nice folks and I know you'd like
9 to visit, but the rule is, they have to, to avoid being rude
10 to you, say, *I can't talk to you. I can't be close to you.*
11 So please understand that they're not being unfriendly.
12 It's just, again, part of what we're going through to try to
13 get to a point where both sides in this case have the
14 absolute best chance for a fair and impartial jury.

15 So, Ms. Costantin?

16 ***MS. COSTANTIN:*** Thank you. As I said, my name is
17 Carrie Costantin. I'm an Assistant United States Attorney.
18 I represent the United States in this case.

19 We've had some time, you've had some time to think
20 about some of the questions the judge already asked you, so
21 I'm just going to ask it one more time. Is there anyone
22 here who's heard any press coverage of this case, about this
23 case, and they've thought about it now, who we haven't
24 already talked to. If so, please raise your hand.

25 || Thanks.

1 As citizens we have three contacts with the criminal
2 justice system: As you sit here today as a juror, as a
3 victim of a crime, or as a defendant or someone who's
4 charged with a crime. You've provided us with
5 questionnaires so this should go a lot faster than normally
6 it does.

7 There were several jurors who had served previously on
8 a jury. Is there anyone who's previously served on a jury
9 for whom it would -- that that was such a bad experience or
10 difficult experience for them that they feel they could be
11 unable to serve on another jury, to serve on this jury? If
12 so, please raise your hand.

13 Okay. The judge talked about certain important
14 concepts; for example, that I, the government, must show,
15 beyond a reasonable doubt, that the defendants are guilty of
16 this crime. And that's higher than a preponderance. It's
17 not beyond all doubt. The Court will define what
18 "reasonable doubt" is.

19 Is there anyone who's going to be unable to follow
20 that instruction? They have -- in their own mind they have
21 their idea, here's what reasonable doubt means, and that's
22 what it's going to be. If so, please raise your hand.

23 As I said, the second way that we as citizens have
24 contact with the criminal justice system is if we or someone
25 close to us is a victim of a crime. I'm just going to jump

1 around a little bit because we've had some answers to some
2 of these questions. Number 13, Ms. Miller, hiding behind
3 there. You indicated that you had been the victim of a
4 crime; is that correct?

5 **JUROR NO. 13:** Yes.

6 **MS. COSTANTIN:** And that the perpetrator was not
7 caught; is that right?

8 **JUROR NO. 13:** Correct.

9 **MS. COSTANTIN:** First of all, I'm sure you're not
10 satisfied that the victim -- or I assume you were not
11 satisfied that the perpetrator was not caught.

12 **JUROR NO. 13:** A long time has passed [indiscernible].

13 **COURT REPORTER:** I'm sorry, I couldn't hear you.

14 **JUROR NO. 13:** I said a long time has passed. That
15 happened when I was 18, so not that long.

16 **MS. COSTANTIN:** An intermediate time has passed since
17 that time, right?

18 **JUROR NO. 13:** Yes.

19 **MS. COSTANTIN:** Is there anything about that
20 experience that would prevent you from being fair to both
21 sides, both the United States as well at the defendants?

22 **JUROR NO. 13:** No.

23 **MS. COSTANTIN:** Okay. Mr. Liscombe, you indicated
24 that your brother was killed by a drunk driver; is that
25 correct?

1 **JUROR NO. 19:** Yes.

2 **MS. COSTANTIN:** And that you were not satisfied with
3 how that was resolved; is that correct?

4 **JUROR NO. 19:** [Inaudible response.]

5 **MS. COSTANTIN:** What part of it were you not satisfied
6 with? What happened with the courts, what happened with the
7 police? What part of it was the --

8 **JUROR NO. 19:** More with the court.

9 **MS. COSTANTIN:** I think what we're going to do,, so
10 that we can hear everybody is, when you're answering if you
11 can take your mask off and use the microphone. I think --
12 is that --

13 **THE COURT:** What's his number?

14 **MS. COSTANTIN:** Number 19.

15 What was it about the court? What happened with the
16 court that you're not satisfied with?

17 **JUROR NO. 19:** The other driver pretty much got away
18 and they got nothing out of it.

19 **MS. COSTANTIN:** Okay. So you feel, obviously, in that
20 case that justice was not done; is that fair to say?

21 **JUROR NO. 19:** Yes.

22 **MS. COSTANTIN:** Is there anything about that
23 experience, the fact that you felt that in that case with
24 your brother that justice wasn't done, that would prevent
25 you from being fair and impartial in this case?

1 **JUROR NO. 19:** I don't believe so. That was 16 years
2 ago. At that time it was a lot harder than what it is right
3 now.

4 **MS. COSTANTIN:** All right. Thank you, sir.

5 The last way that we or someone close to us has
6 contact with the criminal justice system is if we're accused
7 or arrested for a crime. And a number of people have
8 indicated that they or someone close to them was arrested or
9 charged with a crime. Ms. Smith, you had indicated --

10 **THE COURT:** What number?

11 **MS. COSTANTIN:** Number 3. I'm sorry. I'll do
12 numbers, Judge. I'm sorry.

13 Number 3, you'd indicated that you had a family member
14 who had a possession of a controlled substance arrest
15 sometime ago; is that correct?

16 **JUROR NO. 3:** Yeah. It was before I met him. It was
17 my husband.

18 **MS. COSTANTIN:** Okay. All right. Do you have an
19 opinion -- so it was before you even had met him? Before
20 you had met him is when this happened?

21 **JUROR NO. 3:** Correct.

22 **MS. COSTANTIN:** Do you have an opinion in that case as
23 to whether the outcome was fair in that case or you don't
24 have an opinion one way or the other?

25 **JUROR NO. 3:** I don't have an opinion because I wasn't

1 there, so --

2 **MS. COSTANTIN:** Is there anything about the fact that
3 that happened with him that would prevent you from being
4 fair and impartial in this case?

5 **JUROR NO. 3:** No.

6 **MS. COSTANTIN:** Okay. Thank you, ma'am.

7 Number 11, you had indicated that you had a family
8 member who had a DUI.

9 **JUROR NO. 11:** Yes; my brother.

10 **MS. COSTANTIN:** Is there anything about -- do you
11 feel -- first of all, do you feel like the outcome was fair,
12 what happened in that situation, or do you have an opinion?

13 **JUROR NO. 11:** I really don't have an opinion. It was
14 kind of -- my parents didn't really tell us a lot about what
15 happened. I just know he was arrested.

16 **MS. COSTANTIN:** Okay. So that sounds to me like
17 there's nothing about that that would prevent you from being
18 fair to both sides in this case?

19 **JUROR NO. 11:** No.

20 **MS. COSTANTIN:** Number 13, I'm back to you. I'm
21 sorry. You had indicated there's a DWI. Was there anything
22 about that experience that would -- first of all, do you
23 feel that that was an appropriate outcome, what happened
24 there? Was that fair?

25 **JUROR NO. 13:** Yes.

1 **MS. COSTANTIN:** Anything about that case that would
2 prevent you from being fair and impartial to either side?

3 **JUROR NO. 13:** No.

4 **MS. COSTANTIN:** Okay. Thank you.

5 Mr. Kolb, Number 16. I'm sorry. I'm trying to do
6 numbers. Number 16 indicated there's some old arrests for
7 minor in possession as well as controlled substance; is that
8 correct?

9 **JUROR NO. 16:** Yes, ma'am. Long time ago. Long time
10 ago. Different world, different time.

11 **MS. COSTANTIN:** So you said it was fair, the outcome
12 was fair?

13 **JUROR NO. 16:** Absolutely.

14 **MS. COSTANTIN:** Anything about that that would affect
15 you in your decision regarding this case?

16 **JUROR NO. 16:** Absolutely not.

17 **MS. COSTANTIN:** All right. Thank you, sir.

18 Number 20, you had indicated there was an arrest but
19 it ended up getting dropped.

20 **JUROR NO. 20:** Yes, that's correct.

21 **MS. COSTANTIN:** Anything about -- well, first of all,
22 do you feel that the result was -- the outcome was fair?

23 **JUROR NO. 20:** I do.

24 **MS. COSTANTIN:** Do you feel you were treated fairly
25 before the outcome?

1 **JUROR NO. 20:** Yes.

2 **MS. COSTANTIN:** All right. And is there anything
3 about that experience that would prevent you from being fair
4 to both sides?

5 **JUROR NO. 20:** No, there's not.

6 **MS. COSTANTIN:** Okay. Thank you.

7 Number 21, you indicated there was a family member who
8 had been convicted of DUI manslaughter; is that fair?

9 **JUROR NO. 21:** That's correct.

10 **MS. COSTANTIN:** Do you believe that the outcome of
11 that case was fair?

12 **JUROR NO. 21:** I do.

13 **MS. COSTANTIN:** Is there anything about that case or
14 the outcome of that case that would prevent you from being
15 fair to both parties in this case?

16 **JUROR NO. 21:** No.

17 **MS. COSTANTIN:** Okay. Thank you, ma'am.

18 Number 22, you indicated you had a family member with
19 a prior conviction; is that correct?

20 **JUROR NO. 22:** Yes, ma'am.

21 **MS. COSTANTIN:** Is there anything about that -- well,
22 first of all, do you feel that the outcome was fair in that
23 case or not?

24 **JUROR NO. 22:** For the most part.

25 **MS. COSTANTIN:** Is there anything in particular that

1 you felt was unfair about it?

2 **JUROR NO. 22:** It was just -- it was a very long
3 process. It lasted for years and I didn't feel like -- I
4 just felt like it didn't -- the right questions weren't
5 being asked about certain people, and I feel like my family
6 member was treated unjustly in certain areas.

7 **MS. COSTANTIN:** Okay. All right. Is the fact that
8 you feel that your family member was treated unjustly in
9 certain areas, would that have an impact on you as you
10 listen to this case?

11 **JUROR NO. 22:** I can't say that 100 percent.

12 **MS. COSTANTIN:** Okay. So you can't say it wouldn't
13 have -- you can't say it would not have an impact? It might
14 have an impact, is that the easiest way to say it?

15 **JUROR NO. 22:** Yes, ma'am.

16 **MS. COSTANTIN:** One of the things that we have to do
17 as attorneys is try and get people to sort of fill that out
18 and go from "might" to "yes" or "no." So I guess I just
19 have to ask you again: Do you believe that it would have an
20 impact on you?

21 **JUROR NO. 22:** Yes, ma'am.

22 **MS. COSTANTIN:** Okay. Do you feel that you'd be
23 better suited to be an another jury, another type of case,
24 like a civil case, not a criminal case?

25 **JUROR NO. 22:** Or no case.

1 **MS. COSTANTIN:** Or no case. Fair enough. I don't get
2 to make that decision. Number -- thank you, ma'am.

3 Number 24, please. I believe you indicated that you
4 had a family member a cousin who was in jail for DWI; is
5 that right?

6 **JUROR NO. 24:** A family member, yes.

7 **MS. COSTANTIN:** Is there anything -- I'm sorry?

8 **JUROR NO. 24:** My mother.

9 **MS. COSTANTIN:** Oh, I'm sorry. I didn't have that.
10 I'm sorry. And on these questions if there's anything that
11 you don't feel like sharing with like 30 people you don't
12 know, we can certainly go up to sidebar. So I don't know if
13 you feel comfortable answering or if you want to go up to --

14 **JUROR NO. 24:** I'm fine.

15 **MS. COSTANTIN:** What was that charge?

16 **JUROR NO. 24:** DWI.

17 **MS. COSTANTIN:** Okay. All right. Do you feel he was
18 treated fairly?

19 **JUROR NO. 24:** I do.

20 **MS. COSTANTIN:** Is there anything about that case or
21 that outcome in that case that would prevent you from being
22 fair and impartial in this case?

23 **JUROR NO. 24:** Absolutely not.

24 **MS. COSTANTIN:** Okay. Number 26, you indicated that
25 you had a family member who was in prison; is that correct?

1 **JUROR NO. 26:** Correct.

2 **MS. COSTANTIN:** Do you believe the outcome in that
3 case was fair?

4 **JUROR NO. 26:** One hundred percent.

5 **MS. COSTANTIN:** Okay. Is there anything about that
6 outcome or that case or how it was handled that would
7 prevent you from being fair and impartial to both sides in
8 this case?

9 **JUROR NO. 26:** No, ma'am.

10 **MS. COSTANTIN:** Okay. And then, I believe, Number 27.
11 Talking about years ago there was a DWI; is that correct?

12 **JUROR NO. 27:** Pardon?

13 **MS. COSTANTIN:** Years ago there was a DWI; is that
14 right?

15 **JUROR NO. 27:** Yes.

16 **MS. COSTANTIN:** Do you believe that the outcome in
17 that case was fair or not?

18 **JUROR NO. 27:** Yes.

19 **MS. COSTANTIN:** Is there anything about that case that
20 would prevent you from being fair in this case?

21 **JUROR NO. 27:** No.

22 **MS. COSTANTIN:** All right. Thank you.

23 Is there anyone here who has been a witness in a case?
24 And I don't mean like you saw something; I mean actually
25 came into court and had to testify. If so, please raise

1 your hand.

2 Now, I anticipate that you're going to hear testimony
3 from police officers as well as FBI agents, and the Court is
4 going to give you an instruction on credibility of
5 witnesses. And you understand that this is the same rule
6 that you use to judge all witnesses, whether someone's a
7 police officer or not. Does everybody understand that?
8 There's a number of folks here who have friends or
9 themselves are in -- friends, family, or themselves are in
10 law enforcement. I'm just going to go through that real
11 quickly and ask you about that information.

12 Number 5, Mr. Degonia. I wasn't sure. Were you a
13 correctional officer yourself?

14 **JUROR NO. 5:** Yes.

15 **MS. COSTANTIN:** You're also an MP in the reserves; is
16 that right?

17 **JUROR NO. 5:** Yes.

18 **MS. COSTANTIN:** Okay.

19 **JUROR NO. 5:** And a federal officer at NGA.

20 **MS. COSTANTIN:** I'm sorry, I didn't have that.

21 **JUROR NO. 5:** Federal officer at NGA.

22 **MS. COSTANTIN:** I didn't realize that. The fact that
23 you are in law enforcement yourself, is that going to make
24 it difficult for you to sit on a case in which law
25 enforcement officers are charged with crimes?

1 **JUROR NO. 5:** I would say yes.

2 **MS. COSTANTIN:** Okay. Are you going to be in a
3 position where, as you listen to the evidence, you're going
4 to be thinking, *what would I have done, or, what if I was in*
5 *that situation, or --*

6 **JUROR NO. 5:** Yes.

7 **MS. COSTANTIN:** Okay. Similarly, the victim in this
8 case is an undercover police officer. I'm assuming you did
9 not have occasion to work undercover, but I could be wrong.

10 **JUROR NO. 5:** No.

11 **MS. COSTANTIN:** Do you think that your experience,
12 your current experience as a law enforcement officer would
13 prevent you from being able to judge this case solely on the
14 evidence that you heard because you have this other
15 experience?

16 **JUROR NO. 5:** No.

17 **MS. COSTANTIN:** Okay. You think you'd be able to set
18 aside all your other experience and just judge the case on
19 what comes into evidence?

20 **JUROR NO. 5:** Yes.

21 **MS. COSTANTIN:** Okay. When you sit there and you
22 think, *that could have been me, or that -- or, what would I*
23 *have done in that situation, how are you going stop that*
24 *from happening and that affecting --*

25 **JUROR NO. 5:** You have to wipe it out of your head,

1 use your best judgment.

2 **MS. COSTANTIN:** And can you do that?

3 **JUROR NO. 5:** Innocent until proven guilty.

4 **MS. COSTANTIN:** Okay. And would you be able to do
5 that?

6 **JUROR NO. 5:** Yes.

7 **MS. COSTANTIN:** Thank you, sir.

8 Number 8. And your brother is in the military police;
9 is that correct?

10 **JUROR NO. 8:** Yeah. He's an officer and he's also the
11 police officer for the post office.

12 **MS. COSTANTIN:** At the post office. Okay. Does he
13 talk about his work in any great detail?

14 **JUROR NO. 8:** No. We're not close.

15 **MS. COSTANTIN:** Okay. Is there anything about that
16 relationship that would prevent you from being fair and
17 impartial in this case?

18 **JUROR NO. 8:** No.

19 **MS. COSTANTIN:** Okay. Thank you.

20 Number 10. Pass that way. Ms. Bain, your brother, is
21 he the warden at Potosi?

22 **JUROR NO. 10:** He is.

23 **MS. COSTANTIN:** Were you yourself a correctional
24 officer?

25 **JUROR NO. 10:** I was.

1 **MS. COSTANTIN:** Okay. And is the fact that you --
2 that your brother is a -- I'm sorry. Your brother is the
3 warden and you yourself were a correctional officer. Is
4 that going to have an effect on you as you listen to the
5 evidence --

6 **JUROR NO. 10:** No, ma'am.

7 **MS. COSTANTIN:** -- in this case? Would you be able to
8 set that aside and be fair to both sides?

9 **JUROR NO. 10:** Yes, I would.

10 **MS. COSTANTIN:** Thank you, ma'am.

11 Number 15. Ma'am, you're a TSA officer; is that
12 correct?

13 **JUROR NO. 15:** Correct.

14 **MS. COSTANTIN:** And so is your husband?

15 **JUROR NO. 15:** Correct.

16 **MS. COSTANTIN:** All right. As a law enforcement
17 officer, as you sit there and listening to the evidence are
18 you going to have a tendency to put yourself in place of the
19 officers and what they're doing?

20 **JUROR NO. 15:** No.

21 **MS. COSTANTIN:** Would you be able to set aside your
22 experiences as a law enforcement officer and judge this case
23 solely on the evidence as it comes in?

24 **JUROR NO. 15:** Yes.

25 **MS. COSTANTIN:** Would you be able to be fair to both

1 sides in this case?

2 **JUROR NO. 15:** Yes.

3 **MS. COSTANTIN:** All right. Thank you, ma'am.

4 Number 16. Yes, you are 16. And your brother-in-law
5 is a sergeant in Crestwood; is that correct?

6 **JUROR NO. 16:** Yes, ma'am.

7 **MS. COSTANTIN:** Do you have much contact with him? Do
8 you talk about -- does he talk about his cases or anything
9 much?

10 **JUROR NO. 16:** No. We never -- have never discussed
11 his work. We see each other a couple times a month. Never
12 discuss his work.

13 **MS. COSTANTIN:** I assume there's nothing about that
14 relationship that would prevent you from being fair and
15 impartial to both parties in this case?

16 **JUROR NO. 16:** No.

17 **MS. COSTANTIN:** All right. Thanks, sir.

18 And, 22. Ma'am, your husband is a Missouri Highway
19 Patrolman; is that correct?

20 **JUROR NO. 22:** Yes, ma'am.

21 **MS. COSTANTIN:** And -- well, I don't know. Does he
22 bring his work home? Does he talk to you about his work?

23 **JUROR NO. 22:** Sometimes. Sometimes he just doesn't
24 want to.

25 **MS. COSTANTIN:** Is there any -- let me ask you this:

1 Has your husband ever had to work undercover?

2 **JUROR NO. 22:** No, ma'am.

3 **MS. COSTANTIN:** Okay. Is the fact that the defendants
4 in this case are police officers, is that going to make it
5 difficult for you to be fair and impartial?

6 **JUROR NO. 22:** No, ma'am.

7 **MS. COSTANTIN:** Would you be able to set aside the
8 fact that your husband is a highway patrolman, is a law
9 enforcement officer, and listen to the evidence as it comes
10 into court?

11 **JUROR NO. 22:** Yes, ma'am.

12 **MS. COSTANTIN:** Okay. You'll be able to set aside the
13 fact that you have your relationship with him? You're not
14 going to be tempted to go home and talk to him about it or
15 anything like that?

16 **JUROR NO. 22:** Right.

17 **MS. COSTANTIN:** I didn't think so. Okay.

18 The judge has made reference to this -- I have nothing
19 more for Number 22.

20 The judge referenced this before but I want to make
21 sure. This trial is expected to last up to two weeks. I
22 believe that jurors -- if anyone here has an absolute
23 conflict that would cause them to be unable to serve, if you
24 could please raise your hand.

25 All right. Mr. Degonia, Number 5. I think we're

1 supposed to be using numbers. I'm sorry.

2 **JUROR NO. 5:** No problem.

3 **MS. COSTANTIN:** Number 5, what's that conflict?

4 **JUROR NO. 5:** Conflict would be my work, not getting
5 paid to be here, and I have payments. I'm the only sole
6 provider in my household.

7 **MS. COSTANTIN:** All right. Thank you, sir.

8 **JUROR NO. 25:** Again, work. Heavy workload and short
9 staff.

10 **MS. COSTANTIN:** You said you have a heavy workload and
11 you're short-staffed?

12 **JUROR NO. 25:** Correct.

13 **THE COURT:** What number?

14 **MS. COSTANTIN:** Number 25.

15 I'm sorry, I should have asked you both. I should
16 have asked you this question, too: Is the fact that you
17 have a heavy workload and short-staffed, is that going to
18 prevent you from being able to concentrate on the evidence
19 as it comes in? Are you going to be thinking, I've got this
20 other stuff to do when I get home or something like that?

21 **JUROR NO. 25:** I always have that going on in my mind
22 but I will wipe it clear.

23 **MS. COSTANTIN:** Fair enough. Thank you, sir.

24 Number 5, is the fact that there's work issues, would
25 that prevent you from being able to listen to the evidence

1 as it comes in?

2 **JUROR NO. 5:** Work issues would only be that my work
3 does not compensate me for being here like most companies
4 do. I'm the sole provider of my household but it
5 wouldn't -- if I was selected, I would be --

6 **MS. COSTANTIN:** You'd be listening to the evidence,
7 okay.

8 **JUROR NO. 5:** Yes, I'd be listening to the evidence.

9 **MS. COSTANTIN:** Thank you, sir.

10 We also had questions -- there were questions in the
11 questionnaire about vision or hearing difficulty. And just
12 going to Juror No. 1, I think you had indicated that
13 sometimes you have problems with -- when people mumble,
14 which I think we all have trouble when people mumble. How
15 has it been in the courtroom so far today?

16 **JUROR NO. 1:** It's been fine.

17 **MS. COSTANTIN:** All right. That's all I need to know.

18 Is there anyone here who's been assaulted by a law
19 enforcement officer or had a close friend or relative who
20 was assaulted by a law enforcement officer? If so, please
21 raise your hand.

22 Now, as the judge said, defendant, former police
23 officer Dustin Boone, is charged with deprivation of civil
24 rights, and defendant former police officer Myers is charged
25 with destruction of evidence. Is there anything about the

1 nature of the charges -- just what I just said, the nature
2 of those charges -- that would make any member of this panel
3 be unable to be fair? Is there someone just listening to
4 the charges says, *I can't be fair about that?* If so, please
5 raise your hand.

6 Anyone who thinks that deprivation of civil rights
7 should not be a crime? If so, please raise your hand.

8 Is there anyone who thinks that destruction of
9 evidence should not be a crime? If so, please raise your
10 hand.

11 Now, Defendant Boone is charged with aiding and
12 abetting the deprivation of the civil rights of Luther Hall,
13 and one of the things that you're going to be instructed on
14 is the concept of aiding and abetting, what aiding and
15 abetting means. I'm going to use an example to illustrate
16 this concept. Now, this is not the facts of the case, even
17 close to the facts of the case.

18 Under aiding and abetting, if I go into a bank with a
19 gun and I rob the bank, and Mr. Livergood sits outside in
20 the getaway car and drives me away from the robbery, he is
21 guilty, under aiding and abetting, of bank robbery even
22 though he never went in the bank. Okay? Does anybody think
23 that should not be the law? If so, please raise your hand.

24 Is there anybody who couldn't follow the law on aiding
25 abetting if they were instructed that that was the law?

1 Okay. Let me give you another example. Under aiding
2 and abetting, if I go into that bank and I have a gun and I
3 rob the bank and Mr. Livergood stays outside and is the
4 lookout to see if the police are coming, he is also guilty
5 of bank robbery under aiding and abetting. Does anyone
6 think that that should not be the law? If so, please raise
7 your hand.

8 If instructed, is there anyone here who's instructed
9 if that's the law -- what aiding and abetting means, that
10 you're guilty of the offense if you aided and abetted --
11 would not follow the law? If so, please raise your hand.

12 Now, the judge mentioned some high-profile cases that
13 were in the news recently and in some of those cases there's
14 a video of the entire incident. In this case there is no
15 video of the entire incident. Is there anyone here who's
16 sitting here right now believes that they're going need
17 video evidence of the crime in order to find a person guilty
18 beyond a reasonable doubt? If so, please raise your hand.

19 Is there anyone here, sitting here right now believes
20 that they're going to need video evidence of the crime in
21 order to find a police officer guilty beyond a reasonable
22 doubt? If so, please raise your hand.

23 Does anyone here believe that, in order to convict a
24 police officer, there must be a higher standard of proof
25 than beyond a reasonable doubt? If so, please raise your

1 hand.

2 Now, you may hear testimony from a witness who pled
3 guilty and is cooperating with the investigation in the hope
4 of receiving a lesser sentence. Now, the use of testimony
5 from such cooperating witnesses is lawful, it's permitted.
6 And the Court will instruct you concerning the rule that you
7 use for judging the credibility of such a witness. Now, is
8 there anyone here who's going to automatically disregard
9 testimony from such a witness just right now, automatically
10 just -- they know right now, *I don't even want to hear*
11 *anything more. I don't want to hear anything from that*
12 *person if that's what I know that they did. If so, please*
13 *raise your hand.*

14 Does anyone have any personal feelings about the
15 government, about our -- about me or Mr. Livergood or what
16 we're doing's use of a cooperating witness that's going to
17 influence your evaluation of the evidence? In other words,
18 not just consider what that person said but think it taints
19 somehow the whole rest of the case. If so, please raise
20 your hand.

21 Would anyone have a bias against the government or for
22 the government because of the use of a cooperating witness?
23 If so, please raise your hand.

24 Would any of you be less likely to believe a witness
25 merely because he or she has entered into such an agreement

1 with the government?

2 Now, the judge is going to give you the law. The law
3 is not what I or defense counsel says it is. And you may
4 have some ideas about what certain things mean like
5 "unreasonable force" or "bodily injury." But you must
6 follow the definitions, the law, that the Court gives you.
7 Is there anyone here who think they're going to be unable to
8 do that, unable to follow what the Court says the law is?
9 If so, please raise your hand.

10 Is there anyone, for personal or religious reasons,
11 feels that they cannot sit in judgment of another person?
12 Because that's, in effect, what happens when you're on a
13 jury. Is there anyone who feels that they cannot do that?
14 Please raise your hand.

15 And, finally, I ask the same question pretty much that
16 the judge asked: Is there anyone who, sitting here right
17 now, has their own reason that they know they can't be fair
18 and impartial and we just haven't asked the right questions?
19 Is there anyone here who believes they can't be fair and
20 impartial? If so, please raise your hand.

21 Thank you. Thanks, Judge.

22 **MR. ROSENBLUM:** Your Honor, may I approach?

23 **THE COURT:** Yes.

24 * * * *

25 *(Discussion held at sidebar between the Court and*

1 *counsel as follows:)*

2 **THE COURT:** Okay.

3 **MR. ROSENBLUM:** Thank you, Judge. I just wanted
4 clarification. So I can't use names?

5 **THE COURT:** The thing is, the court reporter needs the
6 numbers.

7 **MR. ROSENBLUM:** So if I use the name and add the
8 number, I'm fine?

9 **THE COURT:** Yeah. Use the number first.

10 *(End of discussion at sidebar.)*

11 * * * *

12 **MR. ROSENBLUM:** May it please the Court.

13 Good afternoon or -- good afternoon, everybody. I'm
14 Scott Rosenblum, as I introduced myself previously, along
15 with Mr. Fein and Mr. Bilyeu, and we represent Chris Myers,
16 only Chris Myers.

17 So you're going to be asked to compartmentalize
18 evidence with respect to the two individuals charged with
19 offenses, and as you've already heard, they're charged with
20 different offenses. So as a general concept, do you all
21 believe that you can compartmentalize not only the charge
22 but the evidence and view the evidence that comes in with
23 respect to Mr. Myers separately and distinctly from evidence
24 that comes in against Mr. Boone? Do you all feel like you
25 can do that? Can I see your hands? Okay.

1 Do any of you feel like that's an unusual concept,
2 hard to grasp, this idea of compartmentalizing the evidence?
3 But you would all agree it's the fair thing to do, right?
4 Because these two individuals are charged with separate
5 offenses, different offenses, and there'll be different
6 evidence, and at times you'll be instructed only to consider
7 certain evidence with respect to Mr. Myers, only consider
8 certain evidence with respect to Mr. Boone, and disregard it
9 as opposed to each other and any other way. May not have
10 anything to do with each other. Anybody feel like they'd
11 have a difficult time doing that? Anybody feel like some
12 evidence may spill over to the other person even though
13 you're instructed it shouldn't be the case?

14 Now, having said that, because they're each -- and
15 certainly Mr. Myers is entitled to have his case decided
16 just on the evidence presented against him. Do you all feel
17 that, in the event that the evidence doesn't satisfy, the
18 government's case doesn't satisfy beyond a reasonable doubt
19 with Mr. Myers, do any of you feel like you would have any
20 problem returning a verdict of not guilty with respect to
21 Mr. Myers, regardless of the other evidence in the case?
22 Does anybody feel like that?

23 Ms. Emge, Number 8, I can look -- I can't see your
24 face but I can still see your eyes and you appear to be
25 thinking. Okay. Thank you.

1 Now, I'm just going to circle back to some questions
2 that Ms. Costantin asked of some of the jurors.

3 Ms. McBride, where are you? Number 22. So you talked
4 a little bit about a family member that had an issue with
5 the criminal justice system and you were wondering whether
6 or not -- or you pondered whether or not it would spill
7 over, have some effect on your ability to be fair and
8 impartial in this case. Is that a fair characterization?

9 **JUROR NO. 22:** I would be fair as I can. I just would
10 really struggle just being there in general.

11 **MR. ROSENBLUM:** So nobody's going to say jury duty's a
12 walk in the park and I know a number have mentioned being
13 inconvenienced, and I don't know what they pay but I'm sure
14 it's not very good. But the question is: If you're
15 selected as a juror, do you think you could at least
16 temporarily set aside whatever feelings you may or may not
17 have had with respect to the treatment of your family member
18 and decide this case just on the evidence that you hear in
19 this courtroom and the law that His Honor will give to you
20 at the end of the case?

21 **JUROR NO. 22:** Yes.

22 **MR. ROSENBLUM:** You can do that?

23 **JUROR NO. 22:** Yes.

24 **MR. ROSENBLUM:** You can assure this Court and
25 Judge Webber that you can do it fairly and impartially?

1 **JUROR NO. 22:** Yes, sir.

2 **MR. ROSENBLUM:** Thank you, ma'am.

3 Mr. Degonia, Number 5.

4 **JUROR NO. 5:** Yes.

5 **MR. ROSENBLUM:** You indicated a couple things. I
6 think you said that you're the sole provider, which would be
7 a hardship, obviously.

8 **JUROR NO. 5:** Yes.

9 **MR. ROSENBLUM:** In the event that you're selected, you
10 said that that would not affect your ability to concentrate
11 on the evidence and do your job as a juror.

12 **JUROR NO. 5:** That's correct.

13 **MR. ROSENBLUM:** Okay. Thank you. And with respect to
14 your ties and the fact that you personally are in law
15 enforcement, I think the word you used -- and don't let me
16 put words in your mouth -- is that it may be difficult, but
17 whatever feelings you have with respect to that, you
18 understand the importance of deciding this case just on the
19 evidence; correct?

20 **JUROR NO. 5:** Correct.

21 **MR. ROSENBLUM:** And the law that His Honor will
22 provide you at the end of the case?

23 **JUROR NO. 5:** Correct.

24 **MR. ROSENBLUM:** And you would do so fairly and
25 impartially for both sides?

1 **JUROR NO. 5:** Yes.

2 **MR. ROSENBLUM:** Which is the way it should be; right?

3 **JUROR NO. 5:** Correct.

4 **MR. ROSENBLUM:** Thank you.

5 Mr. Gierer, Number 25. Again, you had a work-related
6 issue, and I think Ms. Costantin touched on it, but to be
7 certain, you said it would be an inconvenience, and in the
8 event that you're selected you would set those issues aside
9 and decide this case fairly just on the evidence that you
10 hear and the law at the end of the case?

11 **JUROR NO. 25:** Correct.

12 **MR. ROSENBLUM:** Of course, you -- obviously, you
13 understand the importance for the government but you also
14 understand the importance for Mr. Myers; correct?

15 **JUROR NO. 25:** Yes.

16 **MR. ROSENBLUM:** Thank you.

17 As we've seen, even in the short time that we've been
18 talking, all of us have life experiences. If it were such
19 that life experiences didn't affect some of us to be fair
20 and impartial jurors in this case, we would just call 12
21 people down, but obviously we don't do that. In this
22 particular case we're going to question potentially up to 90
23 people, and this is our only opportunity as lawyers to
24 discuss with you exactly if any of those -- discuss with you
25 if any of those life experiences are such that you couldn't

1 set them aside temporarily outside the door and decide this
2 case just on the evidence. If you can, you're a fair and
3 impartial juror, but if you can't, this is our only
4 opportunity to know about it.

5 As Ms. Costantin has said and as the Court has
6 informed you, Mr. Myers has been undated by the federal
7 government and he has been indicted with -- essentially with
8 the destruction of evidence, mutilating evidence in
9 contemplation of an investigation.

10 So, as a starting point, does everybody understand,
11 just like any of us, an indictment is the formal way the
12 United States government informs a citizen of the charges
13 against him or her? Does that make sense, Ms. Bain? Okay,
14 Number 10. So it's a piece of paperwork. That's all it is.
15 It's not self-proving. Ms. Costantin can't lay it on the
16 witness stand and be done with her case. She has to give
17 that indictment life, and she can choose to do it in
18 whichever way the government wants to, by exhibits, by
19 documentary evidence, by witnesses which you'll hear, to
20 give life, to see whether or not the government can make its
21 case beyond a reasonable doubt. Does that make sense to
22 everybody?

23 We can also understand, I think, that, obviously,
24 Mr. Myers has been charged with a crime. He's been indicted
25 by the federal government. Do any of you believe, because

1 he's been indicted, that he must be guilty with what he's
2 charged with or anything else? Let me see your hands if you
3 believe that.

4 Ms. Martin, you shook your head. Number 1.

5 Obviously, that wouldn't be fair; right?

6 **JUROR NO. 1:** Right.

7 **MR. ROSENBLUM:** An indictment is not proof of any
8 fact.

9 **JUROR NO. 1:** Correct.

10 **MR. ROSENBLUM:** There has not been any evidence. That
11 make sense to everybody? Okay.

12 And are you comfortable -- is everybody comfortable,
13 the fact that Mr. Myers has been indicted with a crime, that
14 you are to raise no inference of guilt that he's guilty of
15 what he's charged with or anything else?

16 Ms. Cook, Number 23, are you good with that?

17 **JUROR NO. 23:** Yeah.

18 **MR. ROSENBLUM:** Now, do you believe -- well, first of
19 all, can we all agree that whenever -- to be sitting in that
20 chair and to be charged with a crime by the federal
21 government, a crime of destruction of evidence, that's an
22 awful thing. That's not a good thing. Can we agree with
23 that? Can we also agree that it's equally not a good thing
24 to be charged with such an offense and not be guilty of it?
25 Does that make sense? Let me see your hands if you can

1 agree with that. All right. Thank you.

2 And, lastly, do you all believe that in this country,
3 in June of 2021, that a completely innocent person can be
4 charged by the United States government of something they're
5 not guilty of? Do you all believe that can happen?

6 Nineteen, Mr. Liscombe, do you think that can happen?

7 **JUROR NO. 19:** [Nodded head].

8 **MR. ROSENBLUM:** Thank you.

9 Have any of you had any negative experiences
10 specifically with the St. Louis City Police Department? Any
11 negative experiences? Anybody at all? A number of you have
12 talked about individuals or family members that have been
13 arrested or charged with offenses. I'm not going to go
14 through that again, as Ms. Costantin covered it thoroughly.

15 I just want to ask a general question: Have any of
16 those individual or cases or matters, were any that -- were
17 St. Louis City police officers involved? And generally -- I
18 don't know whether Ms. Costantin answered the question.

19 Have any of you had family members or friends had any
20 negative experiences at all with police officers that you
21 can recall?

22 Now, as it's been pointed out, Chris Myers, who we are
23 representing, was a St. Louis City police officer at the
24 time that he was charged indicted with this offense.
25 Because of that, do any of you give that charge more weight,

1 more credence than if it were any of us, any other citizen?
2 In other words, do you feel like if the government,
3 United States government, charged a police officer there
4 must be something more to it than having just been a citizen
5 that was not a police officer? Does anybody feel like that?
6 Do any of you feel like there must be more significant
7 evidence because, in fact, Chris was a police officer when
8 he was charged? Does anybody feel like that?

9 Now, as Ms. Costantin mentioned, this case was
10 investigated at some point by the FBI, the Federal Bureau of
11 Investigation. Do any of you believe, because the FBI
12 investigated this case, that it must be -- that there must
13 be something to it? Does anybody think that, that the FBI
14 can never get it wrong?

15 So the other side of the coin: Do you all believe
16 that the FBI can get it wrong like any other police agency?
17 Let me see your hands. You're willing to listen to the
18 evidence and see what the evidence is with respect to
19 Chris Myers to determine whether or not they did. Does that
20 sound fair? Okay.

21 You've been talked -- there's been discussion about
22 the burden of proof, and the Court's touched on it,
23 Ms. Costantin's touched on it. Like any of us accused of a
24 crime, the burden on the United States is to prove each and
25 every element of its charge beyond a reasonable doubt.

1 That's the charge. You'll be instructed on it by the Court.
2 As Ms. Costantin correctly pointed out, that doesn't mean
3 proof beyond all possible doubt, but, on the other hand,
4 what it does mean is, that's the standard.

5 So at the end of the day, if you listen to the
6 government's case and you're thinking about the government's
7 case and you say, *You know what, this case sounds*
8 *suspicious. In fact, I think that Chris may have done it,*
9 *but they didn't prove it beyond a reasonable doubt*, do any
10 of you have a verdict -- a problem returning a verdict of
11 not guilty because they failed -- the government failed to
12 meet its burden with respect to Chris Myers? Any of you at
13 all? If you do so, if they failed to meet their burden
14 beyond a reasonable doubt, let me see your hands.

15 The Court -- so nobody has a quarrel with upholding
16 the burden of proof. And, you know, you'll see how it plays
17 out during the course of this trial because the way it's
18 going to play out is, because the government has the burden,
19 His Honor is going to look at the government and say,
20 "Ms. Costantin or Mr. Livergood, you now must give an
21 opening statement." And he'll look at me and he'll say,
22 "Mr. Rosenblum, you may if you choose but you don't have any
23 obligation to do so." "Ms. Costantin, you must present
24 evidence." "Mr. Rosenblum has no -- you don't have an
25 obligation to do so." And, lastly, "You must give a closing

1 argument." And, again, the defense has no obligation to do
2 so because the burden will always be, throughout the time of
3 your deliberations, on the government.

4 Now, I promise you I anticipate not just sitting here
5 because if I did, I would assume that Chris would be giving
6 me some elbows in my side. But I don't have to, that's the
7 point. I don't have to do anything other than let the
8 government try to make its burden. Does everybody
9 understand that concept? Does everybody think that's the
10 way it should be? Any anybody have any objection with it at
11 all?

12 The other concept that you're going to hear is the
13 concept of the presumption of innocence. And just like any
14 one of us, any one of our family members, this week for sure
15 Chris Myers enjoys that presumption of innocence, and the
16 presumption of innocence, it has been said, is alone enough
17 to return a verdict of not guilty. Does that make sense to
18 everybody?

19 So another way to look at it is, you haven't heard any
20 evidence. The Court's told you, Ms. Costantin has told you,
21 and I've told you what the law is in this country. We all
22 are entitled to that presumption of innocence. So if you
23 had to vote right now, what's your verdict? What would your
24 verdict be?

25 **JUROR:** Innocent.

1 **MR. ROSENBLUM:** I'm sorry? Not guilty? Would
2 everybody vote not guilty? Of course, because you haven't
3 heard any evidence. So the presumption alone is enough to
4 return a verdict of not guilty. Because of that and because
5 Chris Myers, as all of us are afforded this presumption, and
6 he is this week, and as I mentioned, we don't have to
7 present any evidence. We can establish reasonable doubt
8 through this concept of cross-examination. Has everybody
9 heard of cross-examination?

10 So does it make sense that when the government may
11 call witnesses and either myself or Mr. Fein or Mr. Bilyeu
12 cross-examine those witnesses, that you will be able to
13 consider after that whether or not we've established this
14 concept of reasonable doubt just through cross-examination?
15 Ms. Smith, does that make sense to you?

16 **JUROR NO. 3:** Yes.

17 **MR. ROSENBLUM:** I can still read your face even with
18 that mask. All right?

19 Now, also because of the presumption of innocence,
20 Mr. Chris Myers, Mr. Myers, has an absolute right not to
21 testify. Absolute. All of us enjoy that right.

22 So, first of all, sometimes we draw on experiences of
23 talking to juries before. So I believe that often times
24 people, jurors, try to put themselves in the shoes of the
25 person accused, and what they would say is, You know, gee,

1 *if I was sitting there at that table I certainly would want*
2 *to get up and talk and start screaming from the loudest*
3 *mountain exactly what happened, exactly what I did. But*
4 *that's not the law. But you can't help how you feel.*

5 So as you sit here now do any of you feel that you
6 would want to hear from Chris or you would want him to
7 testify, and if he chose not to after talking to us, that
8 you would somehow hold it against him regardless of what the
9 Court's instructions are? These are just your personal
10 feelings. Do any of you feel like that may be a negative,
11 that may be a strike against him, that may be something that
12 you would consider? Anybody feel that way? It's fine if
13 you do.

14 How many of you are sitting here and saying, *You know*
15 *what? If I were in that situation I would certainly want to*
16 *testify or I would want to him testify.* Does anybody come
17 down like that?

18 Okay. So you all have no problem following that law
19 and you wouldn't hold it against him whatsoever.

20 Mr. Brokaw, you good with -- Number 9?

21 **JUROR NO. 9:** Yes.

22 **MR. ROSENBLUM:** Everybody on this side in the jury
23 box? On the right side? All right. How about in the
24 middle?

25 Now, on the other hand, Ms. Costantin told you that

1 the Court's going to give you a credibility instruction and
2 I anticipate it will. So if Chris chooses to testify, which
3 is also his absolute right, then he should be treated just
4 like everybody else and follow that same credibility
5 instruction. Does that make sense to everybody? Everybody
6 agrees to do that?

7 Chris Myers was a police officer and sometimes we hold
8 police officers to different standards. The fact that he
9 was a police officer, would that cause you any -- would that
10 cause you to think, well, treat him differently; say, you
11 know, Mr. Rosenblum, I understand what you're saying about
12 the presumption of innocence. I understand that he doesn't
13 have to like any one of us as citizens, but you know if he's
14 a cop, he should testify? Does anybody think that?

15 So along those same lines, has everybody heard of the
16 expression that you can't prove a negative? Does that make
17 sense? I see you shake your head. Ms. King, I see you're
18 shaking your head back there. I can't read your number.

19 29. Ms. Ford, is it? Yeah. Ms. King is over there, 21.

20 So does that concept make sense, you can't sometimes
21 prove a negative? And you all understand that Mr. Myers has
22 already said he's not guilty. He pled not guilty. That's
23 why we're here. And that's what you all are here to
24 determine, what the evidence is and whether this side of the
25 table can prove it beyond a reasonable doubt.

1 So as you sit here now, nobody's going to insist or
2 require that he testifies before you can consider a verdict
3 of not guilty, nor are you going to insist or require that
4 we present any evidence at all, other than
5 cross-examination, before you would consider a verdict of
6 not guilty. Does everybody agree with that concept? Over
7 here? Over here? All right.

8 Does everybody understand the difference of
9 speculation and guessing versus objective evidence? So take
10 a moment and think about it. And does everybody understand
11 there's a difference between speculation and guessing and
12 objective evidence? Mr. Tang, do you understand the
13 difference?

14 **JUROR NO. 2:** Yes.

15 **MR. ROSENBLUM:** Okay. Now, I'll try my own example.
16 For instance, that gentleman over there with the beard, if I
17 asked everybody in this room to guess his age, other than
18 maybe insulting him -- but there's about 26 of you now in
19 the room. We may get 26 different guesses; fair to say?
20 And is it fair to say that those guesses compared against a
21 birth certificate, one may be objective evidence, the other
22 may be a guess. Make sense?

23 And, clearly, when you're deciding something as
24 important as Chris's rights, Chris's life and liberty,
25 objective evidence is how we should come down. You all

1 agree with that concept? I'm talking about speculation
2 along those same lines. When we walked into the -- when we
3 walked into the courtroom, you may have looked at him,
4 Mr. Bilyeu -- sorry I keep picking on him -- and you may
5 have speculated, because he's sitting at that table, that he
6 must be a lawyer. But that may not be correct. Could have
7 been a paralegal. Could have been a tech. Does that make
8 sense?

9 Again, when you're making a decision, does everybody
10 understand it has to be on evidence? You'll be instructed
11 what that is, but we don't -- you're not going to make a
12 decision -- speculation isn't evidence. Guessing isn't
13 evidence. That would not be fair. Does everybody agree
14 with that? Does everybody agree to follow that concept?

15 In talking about that these types of issues, has
16 anybody in this courtroom, any of the jurors either been
17 taken out of context or have been taken out of context? I
18 know we all have; right? Ms. King, I see you shaking your
19 head. So would you agree that if you don't understand the
20 context of what you're talking about or what somebody's
21 talking about or what you're trying to communicate, you can
22 reach the wrong conclusion? Does that make sense? And it
23 happens to us all; right?

24 Another way to look at it is -- Ms. King, I'm just
25 guessing. Have you seen a movie recently?

1 **JUROR NO. 21:** Have I? Yes.

2 **MR. ROSENBLUM:** Did it have a plot?

3 **JUROR NO. 21:** Of course.

4 **MR. ROSENBLUM:** Always have to ask that question. I
5 try to ask that question of jurors that don't have young
6 children because the movie may not have had a plot. Without
7 knowing what the movie is or how -- or the title, but did
8 you watch the entire movie?

9 **JUROR NO. 21:** Yes.

10 **MR. ROSENBLUM:** Had you walked in and watched two
11 minutes in the middle of that movie, do you think you could
12 have figured out what it is?

13 **JUROR NO. 21:** No.

14 **MR. ROSENBLUM:** Again, out of context. And do you all
15 agree, before you decide any important issue, that you
16 should understand the context? Does that make sense? And
17 do you all agree that before you decide the case against
18 Christopher Myers, you understand the entire contents? Does
19 that seem fair, Mr. Schaefer, Number 12?

20 **JUROR NO. 12:** Yeah.

21 **MR. ROSENBLUM:** Thank you.

22 Ms. Costantin touched on credibility of witnesses.
23 And as jurors in this case, that's your job, okay? That's
24 your sole province. You have to sit and decide credibility
25 of witnesses whether or not they're criminal, whether or not

1 these witnesses are believable, whether or not they're
2 testifying by way of motive or agenda, whether or not
3 they're lying, innocently mistaken, or just get it wrong.

4 First of all, do you all feel that in this context
5 that you can -- you feel capable and you feel -- you have
6 the ability to judge the credibility of the witnesses that
7 come before you? You all agree you can do that?

8 Ms. Creely, I see you shaking your head. Okay.

9 Ms. McBride, are you good with that concept, Number 22?

10 **JUROR NO. 22:** [Nodding head.]

11 **MR. ROSENBLUM:** All right. Because you're going to
12 hear from witnesses from different walks of life. To be
13 sure, you're going to hear from police officers and you're
14 going to hear possibly from medical personnel, you may hear
15 from FBI, you may hear from technicians. You're going to
16 hear from all sorts of people. And the first issue is,
17 because I anticipate the Court will instruct you, that as
18 those witnesses walk through that door, take the witness
19 stand, swear an oath, that they're all to be treated
20 equally; right? You're not to just either believe or not
21 believe someone because of what they do or what they are.
22 Does that make sense? You all feel you can do that?

23 Ms. Bain, number 10?

24 **JUROR NO. 10:** Yes.

25 **MR. ROSENBLUM:** Good. Now, also we know that some

1 people have difficulty doing that. For some people -- I
2 know you all said you haven't had a negative experience with
3 a police officer, but if at some point during the course of
4 the trial you say, *Gosh, you know what? I had a speeding*
5 *ticket 20 years ago and that guy gave it to me and I didn't*
6 *deserve it and I'm still holding grudges,* that wouldn't be
7 fair to treat a police officer differently, just like it
8 wouldn't be fair to give police officers -- and you're not
9 supposed to give police officers more credibility by virtue
10 of the fact that they're a police officer. But we know
11 sometimes, just from human nature and by how we have thought
12 about law enforcement, either positively or negatively, we
13 don't do that.

14 So as you sit here now, either because of how you grew
15 up or your connections, do any of you feel like you would
16 give more credibility to a police officer that testifies
17 than anyone else? Nobody? Treat them all the same. Fair
18 enough.

19 And the opposite side of the question: Do any of you
20 believe you would give less credibility to a police officer
21 just by virtue of the fact they're a police officer? That
22 wouldn't be fair either, would it?

23 So you will be instructed on how to view credibility.
24 And as I said, that's your sole province. You guys decide
25 the facts. You guys decide whether or not witnesses that

1 come before you, whether they're credible beyond a
2 reasonable doubt, and His Honor will tell you what the law
3 is and how to apply it.

4 There is an exception though to witnesses that are not
5 to be treated the same, and that exception are witnesses
6 that are cooperating witnesses. And you're going to hear
7 that one of the government's witnesses, a gentleman by the
8 name of Randy Hays, you're going to hear a couple things.
9 You're going to hear that he has previously pled guilty to
10 his conduct arising out of this case and that he was charged
11 with a civil rights violation -- that's not what Chris is
12 charged with -- but he was charged with a civil rights
13 violation. You can consider the fact that he has pled
14 guilty as to the weight that his testimony that you give it.
15 You can consider that, the law says that you can, and give
16 it such weight as you believe and only you believe. Does
17 that make sense to everybody? Will everybody agree to
18 follow that portion of the instruction?

19 And the other thing that you can consider is that when
20 he is testifying you are free to consider that he is
21 testifying and that he's cooperating and that he's looking
22 for leniency, he's looking to get a break, he's looking --
23 he's hopeful that his testimony will result in a lighter
24 sentence, and you can consider that and give it what weight
25 you think it deserves.

1 First of all, as a general concept, is that something
2 you all something you think you should be able to consider?
3 Let me see your hands. Mrs. Martin?

4 **JUROR NO. 1:** I'm processing.

5 **MR. ROSENBLUM:** I could tell. I'll give you time to
6 process. Do you think that's something that you should be
7 able to consider, that he's cooperating and hopeful of
8 getting -- he's cooperating and that, as he's cooperating,
9 he's hopeful that he's going to get leniency from the
10 government? When judging his credibility, is that something
11 you think you should be able to consider?

12 **MS. COSTANTIN:** Judge, I would object. The question's
13 whether the juror can follow the law as instructed, not what
14 she thinks what she should be able to consider or not be
15 able to consider.

16 **MR. ROSENBLUM:** I am phrasing it on what the law is so
17 I'm asking if she can give that consideration.

18 **THE COURT:** Ask if she -- well, I don't want to tell
19 you how to ask the question, but the real question is: Can
20 she follow the law as the Court gives it to her?

21 **MR. ROSENBLUM:** Okay. Given that the law tells you
22 that you can consider it in weighing his testimony, first of
23 all, do you think you could follow the law in that regard?

24 **JUROR NO. 1:** I could follow the law.

25 **MR. ROSENBLUM:** Do you think that's fair?

1 **JUROR NO. 1:** [Indiscernible.]

2 **MR. ROSENBLUM:** Pardon me?

3 **JUROR NO. 1:** I said if that's the law.

4 **MR. ROSENBLUM:** Do you have -- I mean I guess my
5 question is: Some of us know what the law is and feel that,
6 I don't agree with it so I don't want to follow the law. Is
7 that what you're saying?

8 **JUROR NO. 1:** No. I was just trying to understand
9 what you were saying the law was.

10 **MR. ROSENBLUM:** Okay. Are we on the same page now?

11 **JUROR NO. 1:** Yes. I understand what you were asking.

12 **MR. ROSENBLUM:** Okay. And do you think that that's
13 something that you should be able to consider, given that's
14 the law, the fact that he's cooperating in hopes of a better
15 deal?

16 **JUROR NO. 1:** Now I'm confused on the question.

17 **MR. ROSENBLUM:** I'm sorry. I'm not trying -- the law
18 basically says that there are exceptions of treating every
19 witness the same. You can consider whether or not Mr. Hays
20 is testifying and cooperating with the government in hopes
21 of leniency. You can consider that in weighing his
22 testimony.

23 **JUROR NO. 1:** Yes.

24 **MR. ROSENBLUM:** That's law. Can you do that?

25 **JUROR NO. 1:** Yes.

1 **MR. ROSENBLUM:** Okay. How about over here? Does
2 everybody feel they can do that? Everybody feels that's the
3 way it should be? Let me see your hands. And in the middle
4 of the room, are we all on the same page over there? Okay.
5 Thank you.

6 Does anybody feel that the fact that Mr. Hays has pled
7 guilty, even though it's to a different offense than
8 Mr. Myers is charged with, but arising out of the same set
9 of facts, that that should have any influence on how you
10 treat Mr. Myers? Does anybody feel that? No? Okay. If
11 you don't feel that way, let me see your hands. Over here
12 and over here? All right. Thank you.

13 I don't know whether this has been asked.
14 Ms. Costantin and Mr. Livergood, they work for the United
15 States Attorney's Office. Sayler Fleming is our current
16 United States Attorney. Do any of you feel that you may
17 know anybody at all associated with the United States
18 Attorney's Office of the Eastern District of Missouri?

19 And the other question is: Mr. Fein and myself and
20 Mr. Bilyeu, we work for my law firm in Clayton: Rosenblum,
21 Schwartz, and Rogers. Have any of you had any experience
22 with the law firm or think you know anybody associated with
23 the law firm, have any experience with me or anyone
24 associated with me?

25 Mr. Myers, as you know, Chris Myers, is -- was a

1 police officer since 2015 in the Fifth District. I don't
2 believe anybody raised their hand to see whether -- to
3 believe that you know Mr. Myers or his family, anything of
4 that nature.

5 Okay. We talked -- I know on your jury questionnaires
6 some of you filled out that you had prior jury service. I'm
7 just -- I'm specifically interested in whether you had prior
8 jury service involving a criminal case. So, in the jury
9 box, have any of you previously sat as a juror on a criminal
10 case? And that's Mr. Brokaw, Number 9. Yes, sir?

11 **JUROR NO. 9:** I have.

12 **MR. ROSENBLUM:** I think you can take your --

13 **JUROR NO. 9:** I'm sorry. I believe three out of the
14 four jury cases I've sat on.

15 **MR. ROSENBLUM:** Three of four?

16 **JUROR NO. 9:** Yes, sir.

17 **MR. ROSENBLUM:** Have been criminal?

18 **JUROR NO. 9:** Yes, sir.

19 **MR. ROSENBLUM:** If you don't mind, can we start with
20 the first that you can remember.

21 **JUROR NO. 9:** First one I remember was probably back
22 around '73, was a murder.

23 **MR. ROSENBLUM:** Okay. Now, without telling me the
24 verdict, can you tell me where that case was?

25 **JUROR NO. 9:** Wentzville, Missouri.

1 **MR. ROSENBLUM:** So would that be St. Charles County?

2 **JUROR NO. 9:** Yes, sir.

3 **MR. ROSENBLUM:** Okay. Thank you. And did the jury
4 reach a verdict?

5 **JUROR NO. 9:** I think so, yes.

6 **MR. ROSENBLUM:** And do you recall whether you were the
7 foreman?

8 **JUROR NO. 9:** No, sir.

9 **MR. ROSENBLUM:** Thank you. And what was the next one
10 you can recall?

11 **JUROR NO. 9:** Well, they've been a while, some of
12 them. The one I can remember right now was two teenagers
13 were kind of getting into a fight, a fistfight, and one was
14 charged with assault with a vehicle.

15 **MR. ROSENBLUM:** Assault?

16 **JUROR NO. 9:** With a vehicle.

17 **MR. ROSENBLUM:** Okay. And can you tell me whether or
18 not that jury reached a verdict?

19 **JUROR NO. 9:** It did.

20 **MR. ROSENBLUM:** And where was that? Again in
21 St. Charles?

22 **JUROR NO. 9:** No, sir. It was in Lincoln County.

23 **MR. ROSENBLUM:** Okay. And were you the foreman of
24 that jury?

25 **JUROR NO. 9:** No, sir.

1 **MR. ROSENBLUM:** And how about the last one, if you can
2 recall.

3 **JUROR NO. 9:** That one happened also in Lincoln
4 County. It was a criminal trespass and I believe failure to
5 stop in a police chase.

6 **MR. ROSENBLUM:** Do you recall where that jury was?

7 **JUROR NO. 9:** In Lincoln County.

8 **MR. ROSENBLUM:** And did it reach a verdict?

9 **JUROR NO. 9:** Yes, sir.

10 **MR. ROSENBLUM:** Were you the foreman?

11 **JUROR NO. 9:** No, sir.

12 **MR. ROSENBLUM:** Thank you, Mr. Brokaw.

13 Anybody else in the jury box have a response to that
14 question? Anybody on the right side of the room ever sat
15 previously on a criminal jury? Ms. King. Yes, ma'am.
16 Number 21.

17 **JUROR NO. 21:** It was less than ten years ago. It was
18 the City of St. Louis. Do you want to know about the case?

19 **MR. ROSENBLUM:** I'm sorry?

20 **JUROR NO. 21:** Did you want to know about the case?

21 **MR. ROSENBLUM:** I just want to know if you recall what
22 type of case it was.

23 **JUROR NO. 21:** It was a criminal case.

24 **MR. ROSENBLUM:** Do you remember the charge? I don't
25 want to know the verdict.

1 **JUROR NO. 21:** It was a shooting.

2 **MR. ROSENBLUM:** Okay. And did the jury reach a
3 verdict?

4 **JUROR NO. 21:** Yes.

5 **MR. ROSENBLUM:** Were you the foreman?

6 **JUROR NO. 21:** No.

7 **MR. ROSENBLUM:** Thank you. Anybody else on the right
8 side of the room? And in the middle of the room? Yes, sir,
9 Mr. Gierer. Am I saying your name right Number 25?

10 **JUROR NO. 25:** Yes, sir. Franklin County about 20
11 years ago. It was a theft.

12 **MR. ROSENBLUM:** A theft case?

13 **JUROR NO. 25:** Theft case.

14 **MR. ROSENBLUM:** Did that jury reach a verdict?

15 **JUROR:** Yes.

16 **MR. ROSENBLUM:** Were you the foreman?

17 **JUROR NO. 25:** No.

18 **MR. ROSENBLUM:** Anybody else in the middle of the
19 room? As long as I'm glancing over at you, Ms. Cook,
20 Juror No. 23, if I recall from your questionnaire, you
21 worked at -- for Victim Services in the Circuit Attorney's
22 office.

23 **JUROR NO. 23:** Yes, sir.

24 **MR. ROSENBLUM:** Did I get that right?

25 **JUROR NO. 23:** Yes, sir. I was an intern.

1 **MR. ROSENBLUM:** You were an intern?

2 **JUROR NO. 23:** Yes.

3 **MR. ROSENBLUM:** So you weren't actually in the
4 position?

5 **JUROR NO. 23:** No. I was just an intern working with
6 the domestic violence advocates.

7 **MR. ROSENBLUM:** And let me follow up with a couple
8 questions. So can you tell me when you had that position?

9 **JUROR NO. 23:** January through June of 2020.

10 **MR. ROSENBLUM:** Okay. So you worked for the Circuit
11 Attorney, Ms. Gardner?

12 **JUROR NO. 23:** I -- yes, technically, yes.

13 **MR. ROSENBLUM:** Okay.

14 **JUROR NO. 23:** I never met her because she's high up,
15 but yes.

16 **MR. ROSENBLUM:** Did you have any contact with the
17 warrant office?

18 **JUROR NO. 23:** No, sir.

19 **MR. ROSENBLUM:** Did you have any contact with police
20 officers in your role as an advocate?

21 **JUROR NO. 23:** Yes, sir.

22 **MR. ROSENBLUM:** Would they primarily be St. Louis City
23 police officers?

24 **JUROR NO. 23:** Yes, sir.

25 **MR. ROSENBLUM:** Of course, in the domestic violence

1 arena I would assume you had a lot of contact with the
2 victims of domestic violence?

3 **JUROR NO. 23:** Yes, sir.

4 **MR. ROSENBLUM:** Let's sort of unpack that a little if
5 we can. What are you doing now? Are you a social worker?

6 **JUROR NO. 23:** Yeah. I just graduated from Wash U.

7 **MR. ROSENBLUM:** Washington U. Congratulations. Where
8 are you working now?

9 **JUROR NO. 23:** I currently am unemployed.

10 **MR. ROSENBLUM:** Looking for a job. Good luck. Do you
11 plan on going into the same field, victim advocacy?

12 **JUROR NO. 23:** Kind -- yes-ish.

13 **MR. ROSENBLUM:** So your experience working in the --
14 even as an intern --

15 **THE COURT:** Can I see counsel here, please.

16 * * * *

17 *(Discussion held at sidebar between the Court and
18 counsel as follows:)*

19 **THE COURT:** You've used your 45 minutes, and I'm not
20 really worried about that, but what in the world does that
21 have to do with this case?

22 **MR. ROSENBLUM:** I was just going to ask her if she had
23 any negative experiences with the police department. I'll
24 wrap it up.

25 **THE COURT:** Well, you know, you've used your time, so

1 please --

2 **MR. ROSENBLUM:** Okay.

3 **THE COURT:** -- wind it up.

4 *(End of discussion at sidebar.)*

5 * * * *

6 **MR. ROSENBLUM:** So, briefly, Ms. Cook, anything about
7 that role -- did you have any negative experiences that
8 would affect you to sit in this case?

9 **JUROR NO. 23:** No, sir.

10 **MR. ROSENBLUM:** Okay. Thank you.

11 With respect to -- I mentioned cross-examination. The
12 United States Constitution provides any one of us charged
13 with a crime can confront the witnesses against us by virtue
14 of cross-examination. I anticipate that I'll be
15 cross-examining the witnesses the government presents,
16 including the complaining witness, Luther Hall.

17 As a general rule, does anybody have any problem or
18 issue with the concept of cross-examination? Everybody
19 understand that's part of the process? All right.

20 How many of you all engage in text messaging? Just
21 about everybody; right? And as you engage in text messaging
22 have there been circumstances where the communication
23 sometimes goes misunderstood and that you have to follow up,
24 What are you talking about; right? Does everybody agree
25 with that concept? And do you agree that sometimes text

1 messaging can lead people to the wrong conclusion, things of
2 that nature; right? Does that make sense? All right.

3 And in considering text messaging generally, getting
4 back to context, when you're involved in text messaging have
5 any of you on the other receiving end or have been on the
6 receiving end where ultimately you have to pick up the phone
7 and say, *What do you mean? What are you talking about?* Has
8 everybody experienced that situation? So would you agree
9 that sometimes when you're involved in text messaging
10 sometimes the meaning gets lost in translation? Does that
11 make sense? Okay.

12 With respect to a concept of the difference between
13 being a hundred percent certain of a fact -- of a situation
14 versus accurate. Does that make sense?

15 **MS. COSTANTIN:** Judge, I'd object to this line. I
16 don't even know what that has to do -- this is improper
17 voir dire.

18 **MR. ROSENBLUM:** I'll move on.

19 **THE COURT:** All right.

20 **MR. ROSENBLUM:** I just have two more areas.

21 Just by quick show of hands, how many of you all have
22 had military service? Mr. Degonia. What branch?

23 **JUROR NO. 5:** Marine Corps and Army Reserves.

24 **MR. ROSENBLUM:** Mr. Kolb?

25 **JUROR NO. 16:** United States Navy.

1 **MR. ROSENBLUM:** Anybody else on the right side of the
2 room? Mr. -- 27.

3 **JUROR NO. 27:** Navy.

4 **MR. ROSENBLUM:** Middle of the room?

5 I guess my last general question is, before I sit
6 down, and just take a moment to reflect on the comments of
7 the Court with respect to the instructions, my comments, the
8 government's comments, and as you sit here now, do any of
9 you presume anything at all about Chris Myers' guilt or
10 innocence? After listening to everything we said, do you
11 presume anything at all about his guilt or innocence? Thank
12 you, Mr. Brokaw.

13 **JUROR NO. 9:** Innocent until proven guilty.

14 **MR. ROSENBLUM:** Thank you. Do you understand how that
15 can cause some concern? Because we've talked about these
16 concepts and not every hand went up. So the only thing I
17 can ask is that, if you're chosen as a juror in this case,
18 that you all give real meaning to those words the
19 "presumption of innocence." In the jury box? Over on the
20 right side? And in the middle?

21 Thank you very much.

22 *(Discussion held at sidebar between the Court and
23 counsel as follows:)*

24 **THE COURT:** The agreement was, as understood, that you
25 were going to ask take care of the voir dire, but what

1 exactly is -- how --

2 **MR. ROSENBLUM:** I thought I was going to go first in
3 voir dire and take care of the bulk of it. I think
4 Mr. Kilgore has just some specific issues related to his
5 case. I don't imagine it will take long. He's not going to
6 go over all the general stuff.

7 **THE COURT:** I was concerned, if he would just sit
8 down, the jury's going to wonder, you know, what about
9 Mr. Boone? So that answered my question.

10 **MR. KILGORE:** Did you want me to do that now, Judge,
11 or did you want to go to lunch?

12 **THE COURT:** Yeah, let's do it now.

13 *(End of discussion at sidebar.)*

14 * * * *

15 **THE COURT:** Whenever you're ready, Mr. Kilgore.

16 **MR. KILGORE:** Thank you, Judge. May I proceed,
17 Your Honor?

18 **THE COURT:** Yes, sir.

19 **MR. KILGORE:** Good afternoon, ladies and gentlemen.
20 My name is Patrick Kilgore. I represent Dustin Boone and
21 it's on his behalf that I will be speaking to you this
22 afternoon and for the rest of the trial. I won't go over a
23 lot of the issues I intended to cover. I think
24 Mr. Rosenblum did a good job. I just want to touch on a few
25 things that are important for Mr. Boone.

1 I wanted to started by asking -- Mr. Rosenblum ended
2 by taking to you about text messaging, understanding the
3 concept of how important it is to understand context when
4 you've engaged in text messages. So I wanted to talk to you
5 about a couple of different things in that area. I
6 anticipate during the course of this trial that you're going
7 to hear evidence of text messages that Mr. Boone has engaged
8 in that are disparaging of protesters; disparaging of
9 protesters and the things that were going on during the
10 weekend of September 15th, 2017.

11 So my question with regard to that is -- and you will
12 receive an instruction from the judge as to how to make use
13 of that information. So my question is: Is there anybody
14 who, upon hearing that he sent a text message disparaging
15 protesters and making various other comments about
16 protesters, is there anybody who's automatically going to
17 find him guilty just based upon that alone? I don't see any
18 hands. Does everybody understand what I'm asking?

19 The next area I want to get into, it's very difficult
20 but we've got to talk about it, and there's no context for
21 it so I'm not suggesting that. It's not inappropriate; it's
22 much, much worse. I anticipate that you will hear evidence
23 that Dustin Boone engaged in using racist language, vulgar
24 racist language in text messaging. And, again, you will
25 receive an instruction on those text messages, but what I'm

1 asking you: Is there anybody who's going to automatically
2 assume that he is guilty of violating Luther Hall's civil
3 rights because he sent racist text messages and used racist
4 language? Is there anybody who's going to automatically
5 shortcut to a guilty verdict just based upon those text
6 messages? Okay.

7 And I guess the next question I want to ask is: In
8 your lives, in your life experiences, have there been
9 situations where either you, yourself, a close family member
10 or you were confronted with a situation where somebody used
11 racist language? Has that happened to everybody? Anybody?

12 Okay. And, Juror No. 25, can I ask you a little bit
13 about that? Are you comfortable talking about that right
14 here?

15 **JUROR NO. 25:** Yeah, I'm not really comfortable
16 talking about it.

17 **MR. KILGORE:** Okay. Is it something you want to talk
18 about at --

19 **JUROR NO. 25:** No. It's just, I've --

20 **MR. KILGORE:** It's just uncomfortable in general?

21 **JUROR NO. 25:** -- that have used racist language.

22 **MR. KILGORE:** Okay. It's an uncomfortable situation
23 to be in?

24 **JUROR NO. 25:** Yes.

25 **MR. KILGORE:** Okay. Is that somebody you were close

1 to, a friend or co-worker? What's the circumstance? Can
2 you tell me a little bit about that.

3 **JUROR NO. 25:** Friend.

4 **MR. KILGORE:** Did you handle that in a particular way?

5 **JUROR NO. 25:** I didn't confront them on it. I just
6 let it pass.

7 **MR. KILGORE:** Okay. I understand. And would you
8 agree with me that an individual that uses that type of
9 language like your friend could potentially mature and learn
10 from that and grow out of that?

11 **JUROR NO. 25:** Yes.

12 **MR. KILGORE:** Okay. And would you agree with me that
13 somebody who uses that type of language, often that can be a
14 product of your upbringing or the environment in which you
15 operate in?

16 **JUROR NO. 25:** Yes.

17 **MR. KILGORE:** Okay. Is there anybody that disagrees
18 with that?

19 Okay. So with regard to what Dustin Boone is charged
20 with, he's charged with a very specific offense, and he is
21 charged with wilfully depriving Luther Hall by aiding and
22 abetting others in the violation of Luther Hall's civil
23 rights. Does everybody understand that Dustin Boone is not
24 charged with a hate crime? This charge has nothing to do
25 with the race of Mr. Hall. Everybody understand that? I

1 see some heads nodding. Okay.

2 So can you all promise me right now that you will
3 follow the Court's instructions, compartmentalize evidence
4 and focus on the objective evidence that's presented to you
5 in this courtroom? Can you all make me that promise right
6 now? Okay. See a bunch of heads shaking. Okay.

7 So I know that the Court has instructed you, and
8 certainly Mr. Rosenblum talked about it at great length,
9 about the constitutional protections regarding the
10 presumption of innocence. Burden of proof is always on the
11 government beyond a reasonable doubt unless and until you
12 find Dustin Boone guilty on your verdict. Does everybody
13 understand that all of those provisions apply to
14 Dustin Boone as well? Does anybody take any issue with
15 that? Okay.

16 And regarding -- I know Ms. Costantin talked a little
17 bit to you about aiding and abetting, and she gave you the
18 example of, I guess, her and Mr. Livergood are robbing
19 banks. So in the first example I believe Mr. Livergood was
20 the getaway driver and the second example Mr. Livergood was
21 the lookout, so, therefore, her example would be that he
22 would be guilty of aiding and abetting if those were facts
23 proven beyond a reasonable doubt. You all with me? Okay.

24 So you understand by, through that example and the
25 reason that you can find Mr. Livergood guilty if she proved

1 those facts beyond a reasonable doubt is because he acted
2 wilfully and he had knowledge of what she was doing.
3 Everybody understand? Okay.

4 So if you hear evidence that Dustin Boone was present
5 at the scene regarding this incident with Luther Hall, can
6 you all promise me that you will follow the Court's
7 instruction and not find Dustin Boone guilty merely because
8 he was presented at the scene that this occurred? Does
9 everybody understand that?

10 Is there anything else -- since the few minutes that
11 I've been talking to you that I brought up these issues, is
12 there anything that anybody feels like we need to know
13 before I move on? Okay. I don't see any hands.

14 Thank you, Judge. I think that's all I have.

15 **THE COURT:** Thank you. Could I please again speak
16 with counsel.

17 * * * *

18 **(Discussion held at sidebar between the Court and**
19 **counsel as follows:)**

20 **THE COURT:** What is the expectation about strikes for
21 cause of this particular panel? Do we move on to the next
22 panel and then make all the strikes at the same time? Do
23 you have a view about it?

24 **MR. ROSENBLUM:** I don't think there's very many
25 strikes for cause on this panel.

1 **MS. COSTANTIN:** I would like to make the strikes for
2 cause now but I'm not sure there were any, to be honest.

3 **MR. ROSENBLUM:** I don't think there were.

4 **MS. COSTANTIN:** I have to look at my notes but I don't
5 know that there were any strikes for cause beyond what we've
6 already done, but if you want to --

7 **MR. ROSENBLUM:** I agree with that. I think we move on
8 to the next panel.

9 **THE COURT:** Move to the next panel and then we'll --

10 **MS. COSTANTIN:** Mr. Livergood's checking.

11 **MR. ROSENBLUM:** We don't have any strikes for cause,
12 do we?

13 **MR. FEIN:** No.

14 **THE COURT:** Okay.

15 **MS. COSTANTIN:** I agree, I don't think that we have
16 any additional strikes for cause.

17 **THE COURT:** What I'm going to do is tell them they're
18 free to go to lunch and they need to return to the ninth
19 room so we don't get them mixed up. And then we'll -- but
20 we're going to take a brief lunch break also.

21 **MS. COSTANTIN:** Okay. But, Judge, do we need this
22 group here at all the rest of the day?

23 **THE COURT:** I can't hear you.

24 **MS. COSTANTIN:** I'm sorry. Do we need this group here
25 at all the rest of the day?

1 **THE COURT:** Well, if we -- we could wind this up today
2 if they're available.

3 **MR. ROSENBLUM:** I think, rightfully or wrongfully,
4 based on the fact that -- Carrie and I -- last time the jury
5 selection went two full days. Obviously it's not. I think
6 we'll probably wrap up today, I'm guessing, hopefully,
7 depending on the next panel. So I don't think either one of
8 us were anticipating either opening our evidence, so I mean
9 if the Court please, I would just send this group back with
10 an admonishment.

11 **THE COURT:** What we can do is send them to the ninth
12 floor. We're going to take a break for like 35 minutes. Is
13 that enough time for your lunch?

14 **MR. ROSENBLUM:** Fine with me.

15 **THE COURT:** I will tell them to go have a lunch. When
16 they come back, come back to the ninth floor, and then
17 hopefully we'll move through that other panel and then we'll
18 do all the strikes for cause, and then after we do that we
19 can --

20 **[Indiscernible.]**

21 **(End of discussion at sidebar.)**

22 * * * *

23 **THE COURT:** The attorneys are working very hard to try
24 to move this so it will not be necessary for you to come
25 back for another day. And so the plan is for you to go to

1 lunch, take whatever time you need, because it's going to be
2 a while, and we are going to take a 35-minute break so
3 everyone here can have some lunch, lawyers and personnel,
4 and then we're going to begin -- going to do the second
5 panel. There's another 30 jurors. So you kind of know,
6 having been through this, that's going to take a while. But
7 we're hopeful to get this done today. And so I just want to
8 make sure everyone understands, you're not excused at this
9 time. You're free to go to lunch, but please come back and
10 go to the ninth floor after lunch and wait there for further
11 instructions. Okay? Any questions about that?

12 Okay. Thank you. Court's in recess.

13 *(Court recessed from 1:06 p.m. to 2:22 p.m.)*

14 *(Proceedings reconvened in open court with the second
15 venire panel present:)*

16 **THE COURT:** I'm calling the case *United States of
17 America vs. Mr. Dustin Boone and Mr. Christopher Myers.*
18 Number is 4:18-cr-00975-ERW.

19 Is the United States ready?

20 **MS. COSTANTIN:** Yes, Your Honor.

21 **THE COURT:** Is Defendant Boone ready?

22 **MR. KILGORE:** Yes, Your Honor.

23 **THE COURT:** Is Defendant Myers ready?

24 **MR. ROSENBLUM:** Yes, Your Honor.

25 **THE COURT:** Thank you. Ladies and gentlemen, thank

1 you so much for your prompt appearance. And I realize that
2 you've been waiting. It's our hope that we can finish this
3 jury selection process rather than having you come back
4 another day. It isn't for sure we can do that but that's
5 what we're trying to accomplish.

6 It is common here in this building, as people walk
7 around, jurors will come in contact with attorneys. When
8 attorneys -- when you're meeting or seeing an attorney out
9 there, if they look the other way or walk the other way,
10 they are not being rude. They are trying to avoid the
11 appearance of impropriety. For example, if you would see
12 someone talk -- if a lawyer from one side would see you
13 talking to a lawyer from another side they might draw an
14 unreasonable inference that you're talking about the case.
15 Just, please -- lawyers like to visit and they would like to
16 be more friendly but this is not the place for that.

17 And so I wanted to -- I shall now read to you what is
18 called Jury Instruction Number 0.01:

19 Members of the jury panel, if you have a cell phone,
20 smart phone, iPhone, or any other wireless communication
21 device with you, please take it out now and turn it off. Do
22 not turn it to vibrate or silent; power it down. You must
23 leave your cell phones completely powered off whenever you
24 are here in the courtroom. You may use them during breaks,
25 of course, but whenever you come back into the courtroom

1 please be sure they are completely powered off.

2 If you are selected as a juror you must continue to
3 leave your cell phones off whenever you are in the
4 courtroom. Also, you will not be allowed to have your
5 phones in the jury room during your deliberations. You may
6 give them to the court clerk for safekeeping.

7 I understand you may want to tell your family, close
8 friends, and other people about your participation in this
9 trial so that you can explain where you are and when you're
10 required to be in court, and you should warn them not to ask
11 you about the case, tell them -- they must not tell you
12 anything they know or think they know about it or discuss
13 this case in your presence.

14 You must not post any information on social media or
15 communicate with anyone about the parties, witnesses,
16 participants, charges, evidence, or anything else related to
17 the case, or tell anyone anything about the jury's
18 deliberations in this case until after I accept your verdict
19 or until I give you specific permission to do so.

20 If you discuss this case with someone other than the
21 other jurors during deliberations, you may be influenced in
22 your verdict by their opinions. That should not -- that
23 would not be fair to the parties and it would result in a
24 verdict that is based on evidence and -- is not based on
25 evidence and the law.

1 While you're in the courthouse and until you are
2 discharged in this case, do not provide any information to
3 anyone via any means about this case. Thus, for example, do
4 not talk face-to-face or use any electronic device or media
5 such as the telephone, a cell or smart phone, camera,
6 recording device, computer, the Internet, any Internet
7 service, any text or instant messaging service, any social
8 media such as Facebook, Instagram, Snapchat, or Twitter, or
9 any other way to communicate to anyone any information about
10 this case until I accept your verdict or until you have been
11 excused as a juror.

12 Do not do any research -- on the internet, in
13 libraries, in newspapers, or in any way -- or make any
14 investigation about this case on your own. Do not view
15 or -- do not visit or view any place discussed in this case
16 and do not use internet programs or other devices to search
17 for or to view any place discussed in the testimony. Also,
18 do not research any information about this case, the law, or
19 the parties involved, including the parties, the witnesses,
20 the lawyers, and the judge until you have been excused as
21 jurors.

22 The parties have a right to have this case decided
23 only on the evidence they know about and that has been
24 presented here in court. If you do some research or
25 investigation or experiment that we don't know about, then

1 your verdict may be influenced by inaccurate, incomplete, or
2 misleading information that has not been tested by the trial
3 process, including the oath to tell the truth and by
4 cross-examination.

5 Each of the parties is entitled to a fair trial,
6 rendered by an impartial jury, and you must conduct yourself
7 so as to maintain the integrity of the trial process. If
8 you decide a case based on information not presented in
9 court, you will have denied the parties a fair trial in
10 accordance with the rules of this country and you will have
11 done an injustice. It is very important that you abide by
12 these rules. Failure to follow the rules and instructions
13 could result in the case having to be retried.

14 Is there anyone on this panel who cannot or will not
15 abide by these rules concerning communications with others
16 and outside research in any way, shape, or form during this
17 trial?

18 The purpose of voir dire is to select a jury that will
19 be fair to both sides and to make sure no preconceived
20 notions generally or any ideas about this case might
21 influence your decision.

22 "Fair to both sides" means a jury that will decide the
23 case based only on the evidence presented here in court and
24 the law as I give it to you in my instructions.

25 Thank you for answering the questionnaires. That

1 has -- that will shorten things considerably. I'll be
2 asking some questions today, as will the attorneys. Not
3 intending to be rude or pry into your personal affairs but
4 some questions may do that, and if there is a question that
5 is so personal you're not confident answering it in front of
6 your fellow jurors, you may always have the option of
7 answering -- raising your hand and asking to come up here to
8 the sidebar so the lawyers and I can hear your answers.

9 Now, I'm going to ask each of you to please rise,
10 raise your right hand, and the clerk shall administer an
11 oath to you.

12 **(*Venire panel sworn.*)**

13 **THE COURT:** I will be asking some questions and
14 respective counsel will be asking some questions of the
15 panel. If you would prefer, as I mentioned, to keep your
16 answer private, please ask to give it up here at the bench
17 out of the hearing of the other jurors.

18 When you give an answer, even if you do so more than
19 one time, please state your number for the court reporter.
20 If you are selected as a juror, after opening statements you
21 will be supplied with a notebook for convenience in taking
22 notes.

23 Counsel for the United States will introduce herself
24 and introduce other persons at counsel table at this time.

25 **MS. COSTANTIN:** Good afternoon. My name's

1 Carrie Costantin. I'm an Assistant United States Attorney.
2 Robert Livergood is also an Assistant United States Attorney
3 here. And Darren Boehlje is an FBI agent.

4 **THE COURT:** Is there anyone on the panel who knows or
5 believes they know or who believes they work with any of the
6 United States Attorneys or the individuals mentioned here
7 today? All right.

8 Counsel for defendants will now introduce themselves
9 and introduce any other persons at counsel table, including
10 the defendants. Mr. Rosenblum.

11 **MR. ROSENBLUM:** Thank you, Your Honor.

12 Scott Rosenblum, representing Christopher Myers, along
13 with Adam Fein of my office and Brad Bilyeu of my office,
14 and Christopher Myers.

15 **THE COURT:** Is there anyone on the panel who knows or
16 thinks they may know any of the individuals just introduced
17 by Mr. Rosenblum, or Mr. Rosenblum himself? All right. You
18 may be seated.

19 At this time, Mr. Kilgore.

20 **MR. KILGORE:** Good afternoon, ladies and gentlemen.
21 My name is Patrick Kilgore and I represent Dustin Boone.

22 **THE COURT:** Is there anyone on the panel who knows or
23 thinks they may know either Mr. Kilgore or Mr. Boone? Yes.
24 What's your number, please?

25 **JUROR NO. 48:** Forty-eight. I think we have some

1 mutual friends with Mr. --

2 **THE COURT:** Just a second. We're going to have a
3 microphone over to you. Go ahead, sir.

4 **JUROR NO. 48:** Hi there. Number 48.

5 **THE COURT:** You can take your mask down if you want
6 while you're answering.

7 **JUROR NO. 48:** I believe I have some mutual friends
8 with Mr. Boone. I have an indirect connection to him.

9 **THE COURT:** Would you like -- would you like to come
10 up and give your answer up here? I'm not sure I understood.

11 *(Juror No. 48 approaches the sidebar.)*

12 * * * *

13 *(Discussion held at sidebar with Juror No. 48, the
14 Court, and counsel, as follows:)*

15 **THE COURT:** That's kind of crowded. I wasn't sure I
16 heard your full answer.

17 **JUROR NO. 48:** Yes, sir. Yeah, I have some mutual
18 friends with Mr. Boone, and he and I used to live on the
19 same block in South City about ten years.

20 **THE COURT:** Okay. How long has it been since you've
21 known him personally?

22 **JUROR NO. 48:** I haven't lived on that block in ten
23 years but I do still have some mutual acquaintances, and I
24 think we've been at the same party in the last couple
25 months.

1 **THE COURT:** Okay. If you're selected as a juror in
2 this case, would that friendship influence you in any way in
3 making a decision one way or the other?

4 **JUROR NO. 48:** It could. Honestly, it could, sure,
5 yeah.

6 **THE COURT:** Okay.

7 **JUROR:** I mean I can't say honestly.

8 **THE COURT:** Thank you for your honesty.

9 **MS. COSTANTIN:** Basically it would be awkward to be on
10 this jury and run into him again.

11 **JUROR NO. 48:** Yes, ma'am.

12 **MR. ROSENBLUM:** I don't have any questions.

13 **MR. KILGORE:** I don't think I have any further
14 questions at this time, Judge.

15 **THE COURT:** Thank you very much for your honesty.

16 **JUROR NO. 48:** Yeah, yeah. Yes, sir.

17 *(Juror No. 48 leaves the sidebar, and the discussion
18 continues between the Court and counsel as follows:)*

19 **MS. COSTANTIN:** I would make a motion to excuse him
20 for cause.

21 **THE COURT:** Okay.

22 **MR. ROSENBLUM:** Do you just want to skip over him in
23 questioning?

24 **THE COURT:** Yeah, you can skip over him and ask him
25 any other questions.

1 **MS. COSTANTIN:** So he's --

2 **THE COURT:** He's excused for cause.

3 *(End of discussion at sidebar.)*

4 * * * *

5 **THE COURT:** Is there anyone else on the panel that
6 knows or believes they know any of the attorneys or the
7 parties?

8 Is there anyone on the panel who does not understand
9 that a charge is not evidence, and simply because a person
10 has been charged is no indication of guilt? Is there anyone
11 who does not understand that?

12 In a criminal trial the defendant is presumed innocent
13 until proved guilty beyond a reasonable doubt. This
14 presumption remains with the defendant until found guilty by
15 a jury. The obligation's always on the government, or
16 United States, to prove the defendant's guilt, and there's
17 no obligation for defendant to prove his innocence. Is
18 there anyone on the panel who disagrees with these
19 principles?

20 Would any of you find the defendant not guilty even if
21 convinced of his guilt beyond a reasonable doubt solely
22 because you felt sympathy for the defendant?

23 Is there anyone who does not understand that the
24 burden of proof in a criminal case is different than a civil
25 case? In a criminal case the defendant is required -- in a

1 criminal case the government, the United States, is required
2 to prove the defendant's guilt beyond a reasonable doubt.
3 Does anyone disagree with this principle?

4 Is there anyone who does not understand that -- who
5 does not understand the defendant has an absolute right not
6 to testify? Will any of you be more likely to believe a
7 defendant is guilty if he does not testify?

8 Is there anyone who does not understand that if a
9 defendant does not testify, you may not discuss that in your
10 deliberations?

11 There are two defendants in this case and the
12 United States, or government's, burden of proof extends to
13 each one separately. Each of the defendants is entitled to
14 be treated separately and you must consider the evidence as
15 to each one separately. Is there anyone who could not do
16 that?

17 The jury has no role in sentencing if you should find
18 a defendant guilty. That is a matter to be decided by the
19 Court and not the jury.

20 Has any juror here today participated in any protests
21 on any matter in the past eight years?

22 Does anyone have any family member or close friend who
23 has participated in a public protest in the last eight
24 years?

25 This case is alleged to have happened during the

1 highly publicized protest that began the afternoon of
2 September 17th, 2017, after the acquittal of former
3 St. Louis City Police Officer Jason Stockley. Did anyone
4 here participate in those protests that began September 15,
5 2017, and continued for several days thereafter?

6 The defendants in this case were police officers. One
7 of the defendants is charged with violating the civil rights
8 of another police officer, Luther Hall, who was working
9 undercover during the protest, posing as a protester. The
10 other defendant is charged with destruction of evidence in
11 contemplation of an investigation. Does anyone here know
12 Luther Hall?

13 Is there anyone here who has personal knowledge about
14 this incident? That's -- ask that question. Well, is there
15 anyone -- I'll be more specific.

16 Has anyone here read or heard any news reports or
17 other stories about this case or has -- have you been told
18 anything about it by someone other than -- strike that. Let
19 me start over.

20 Has anyone read or heard any news reports or other
21 stories about this case or been told about it by someone or
22 otherwise think they know something about this case? If so,
23 please raise your hand at this time. Okay. And we'll be
24 back with a microphone.

25 **THE COURT:** What is your number, sir?

1 **JUROR NO. 47:** Forty-seven.

2 **MS. COSTANTIN:** Judge, can we approach?

3 **THE COURT:** Yeah, come on up.

4 * * * *

5 *(Discussion held at sidebar between the Court and
6 counsel as follows:)*

7 **THE COURT:** Just a second. The machine wasn't turned
8 on. As you were coming up I said I was just going to get
9 the numbers.

10 **MS. COSTANTIN:** Okay.

11 *(End of discussion at sidebar.)*

12 * * * *

13 **THE COURT:** Maybe we can do this without the
14 microphone. Who is the next person that raised their hand
15 back there? What's your number, please?

16 **JUROR NO. 54:** Fifty-four.

17 **THE COURT:** Okay. And the next person?

18 **JUROR NO. 59:** Fifty nine.

19 **THE COURT:** Fifty-nine. Okay. Is there anyone else?
20 Pardon me?

21 **JUROR NO. 38:** Thirty-eight.

22 **THE COURT:** I'm missing them.

23 **DEPUTY CLERK:** Thirty-eight.

24 **THE COURT:** Anyone else who thinks they know anything
25 about this case? Okay. I think that's everyone, okay?

1 I'm sure everyone has been watching the news this past
2 year and heard of the incident of George Floyd. Is there
3 anyone here today that, as they are viewing the evidence in
4 this case, thinks they will not be able to keep that
5 incident or other related incidents such as the
6 Breonna Taylor or Michael Brown cases out of their minds? I
7 see no hands.

8 Does anyone here -- does everyone here understand that
9 this is a separate matter from those involving George Floyd,
10 Breonna Taylor, and Michael Brown?

11 Are any -- strike that.

12 There also may be news reports about this case while
13 the trial is going on. If you're selected to serve as a
14 juror, will you -- strike that.

15 You will be obligated not to view or read any news
16 coverage about this case if there should be any broadcast.
17 Is there anyone who believes they could not or would not be
18 able to follow this rule? And that is not to view any news
19 stories about this case if you're selected as a juror. I
20 want to make sure now that my other question is clear.

21 Is there anyone else who --

22 **DEPUTY CLERK:** Judge, 38.

23 **THE COURT:** Okay. Would you give her the microphone,
24 please.

25 And the question was -- specifically was: If you're

1 selected to serve as a juror, you would be obligated not to
2 view or read any news coverage about the case if there
3 should be any. And I asked: Is there anyone who believes
4 they would not be able to follow this rule?

5 **JUROR NO. 38:** I'm always watching the news and I'm
6 always pulling up the news on my cell phone and reading.

7 **MR. ROSENBLUM:** I'm sorry?

8 **THE COURT:** You can take the mask down. It will be a
9 little clearer. She said she always watched the news.

10 **JUROR NO. 38:** I'm always watching the news. I'm
11 always watching the news on my phone, along with the news on
12 TV, along with Facebook, so I don't know if I would be able
13 to not read on this or --

14 **THE COURT:** Yeah. If you're selected as a juror you
15 will not be permitted to watch any news stories about this
16 case. Could you do that?

17 **JUROR NO. 38:** That's what I'm saying. I'm always
18 watching the news, and I have seen the news on this case,
19 and I don't know.

20 **THE COURT:** Okay.

21 **MR. ROSENBLUM:** Your Honor, can we approach?

22 **THE COURT:** Sure.

23 **MR. ROSENBLUM:** Can we just add Juror 38 to our list?

24 **THE COURT:** All right. Very well. We'll be talking
25 to you later about that. Okay. Thank you.

1 Is there anyone else who would be unwilling to follow
2 the rule if you're on this jury, you would not be permitted
3 to view, listen to, watch any news broadcast about this
4 case? All right.

5 Again, I want to make sure I understand. Is there
6 anyone on the panel that has not already answered that has
7 watched the news and thinks they know anything about this
8 case from the news, other than those that have answered?
9 Okay.

10 Does anyone have an opinion that would affect your
11 ability to serve as a fair and impartial juror in this case
12 about the movements known as Black Lives Matter, Defund the
13 Police, or Blue Lives Matter? Is there anyone that has
14 opinions about -- that would affect your ability to serve as
15 a fair and impartial juror in this case about the movements
16 known as Black Lives Matter, Defund the Police, or Blue
17 Lives Matter? Okay. I see no hands.

18 Is there anyone who does not understand that it is the
19 duty of a juror selected to try this case to reach a verdict
20 based only on the evidence heard in court and under the
21 instructions of the Court?

22 I'm going to read into the record the names of
23 witnesses. These witnesses may not all be called but they
24 may be called, and if they are, I need to know if you know
25 or believe you know any of these individuals. As I read the

1 names, if you believe you know any of these individuals,
2 have any doubt about it, please raise your hand and we'll
3 discuss it further.

4 The first is Darren B-O-C-H-I-L-E [sic].
5 Darren Boehlje. Kim Allen. Lawrence Bryant.
6 Anthony Caruso. Dr. Jacob Buchowski, B-U-C-H-O-W-S-K-I.
7 Paul Chester. Marcus Burzota, B-R-U-Z-O-T-A. Joseph Crews,
8 C-R-E-W-S. Justin Davis.

9 **DEPUTY CLERK:** Judge.

10 **THE COURT:** Okay. Yes.

11 **JUROR NO. 44:** I do know a Justin Davis. Could be the
12 same one. I really don't know.

13 **THE COURT:** Okay. Yeah, there are probably a lot of
14 Justin Davises. Could you approximate --

15 **MS. COSTANTIN:** Judge, he's a police officer.
16 Justin Davis is a police officer.

17 **JUROR NO. 44:** Okay. Not him.

18 **THE COURT:** Okay. Thank you for raising your hand.
19 That was 44.

20 Matthew Drake. Michael Deeba, D-E-E-B-A. Zach Foltz,
21 F-O-L-T-Z. Christopher Gwaltney, G-W-A-L-T-N-E-Y.
22 Lester Hall. Randy Hays. John Green. Randy Jemerson,
23 J-E-M-E-R-S-O-N. Patrick Haug, H-A-U-G. John Hayden.
24 Lindsey Kellis, K-E-L-L-I-S. Taylor Hosna, H-O-S-N-A.
25 Justin Johnson. Andrew Kleffner, K-L-E-F-F-N-E-R.

1 Jerry Leyshock, L-E-Y-S-H-O-C-K. Kyle Mack.
2 Matthew Manley. Joseph Marcantano, M-A-R-C-A-N-T-A-N-O.
3 Richard Melts -- Metz. Richard Metz, M-E-T-Z.
4 Michael Mayo, M-A-Y-O. Lawrence O'Toole. Brian Rossamano,
5 R-O-S-S-A-M-A-N-O. Lou Naes, N-A-E-S. Nathan Strickland.
6 George -- or Greg Schaffer. Trevor Russell. Dan Ogden.
7 Heather Taylor. Marcos Silva. Matthew Tesserau,
8 T-E-S-S-E-R-A-U. Marty Walls III.

9 Okay. Thank you.

10 My concluding questions are as follows: I shall not
11 indicate my opinion about the facts of this case. It is the
12 jurors' duty to decide the facts and my duty to rule on
13 questions of law. Is there anyone on the panel who does not
14 understand that it is your duty, if you are selected as a
15 juror, to follow the law as the Court gives it to you even
16 though you may disagree with the law or find the law to be
17 repugnant or unpleasant to apply as the Court states it
18 exists?

19 Is there anyone who has not already answered who can
20 think of any manner or experience in your lives which would
21 prevent you from being a completely fair and impartial juror
22 in this case?

23 Do each of you -- does each person realize that
24 objections will likely be made, and if there are objections,
25 would you hold that against the party because their attorney

1 makes an objection? It may happen a lot, and sometimes you
2 just wonder what's going on, but if that is something that
3 really bothers you, I need to know about it. Okay.

4 Will any juror find it objectionable if an attorney
5 requests a bench conference up here? And that happens quite
6 a bit, too.

7 Is there any member of the panel who has not already
8 answered who could not, for any reason, listen carefully to
9 all of the evidence and not make up her or his mind
10 prematurely about the case until all the evidence has been
11 seen and heard and the instructions of the Court have been
12 given?

13 Is there any member of the panel who, for any reason,
14 feels that he or she would not want a person listening to
15 her or his case with the same feelings about the case that
16 particular panel member has at this time? That allows you
17 to be very introspective.

18 Is there any member on the panel who, for any reason,
19 whether I've asked the question or not, believes that he or
20 she could not, for any reason, listen to the evidence,
21 decide the facts in a fair, unbiased, and impartial manner,
22 listen to the instructions of the Court, and return a fair
23 verdict?

24 Okay. At this time what we're going to do is excuse
25 you back to the gallery outside. And I need to find my

1 instructions. Those of you who answered, Jurors Number 47,
2 54, 59, 38, and 48, you'll be called back in individually
3 for some additional questioning.

4 Until the case is given to you to decide, you must not
5 discuss the case with anyone or remain in the presence of
6 anyone discussing the case. If anyone tries to talk to you
7 about the case, advise me immediately.

8 Do not read, watch, or listen to radio, television, or
9 news reports of the trial, and keep an open mind until all
10 the evidence has been received and you have heard the views
11 of your fellow jurors.

12 Court will be in recess until after we speak privately
13 with Jurors Number 47, 48, 54, 59, and 38. Each of those
14 persons will be called back as soon as you get back -- in
15 fact, would Juror No. 48 just remain in your seat.

16 **(*Venire panel exits the courtroom; Juror No. 48***
17 ***remains.***)

18 **THE COURT:** I probably asked the wrong person to stay.
19 I think you've already -- has he answered? Any other
20 questions?

21 **MS. COSTANTIN:** No, Judge. But I just would say, I
22 don't believe he knows he's been excused.

23 **THE COURT:** I'm sorry?

24 **MS. COSTANTIN:** I don't believe he knows he's been
25 excused.

1 **THE COURT:** Yeah. Okay. You are excused. You are
2 excused, and someone will take you back through this door,
3 okay? Thank you.

4 Kelley, would you -- does someone out there know to
5 bring in Juror No. 47?

6 **DEPUTY CLERK:** Number 47, Rhonda. I believe 41
7 said -- Juror No. 41 would like to be called. He said he
8 might have heard something about it over the news.

9 **THE COURT:** Okay. Thank you.

10 **DEPUTY CLERK:** He told me out there.

11 **THE COURT:** Okay. Thank you.

12 Thank you very much, sir.

13 *(Juror Number 48 exits the courtroom; Juror Number 47*
14 *enters the courtroom.)*

15 **THE COURT:** You may inquire.

16 **MS. COSTANTIN:** Thanks, Judge.

17 You indicated that you had heard some publicity about
18 this case.

19 **JUROR NO. 47:** I did. I don't remember specifically
20 what I originally heard it, but I believe it was just on a
21 morning news cast. Sometimes I have the news on while I get
22 ready for work, and heard about the case. And,
23 interestingly enough, in waiting in the jury room as I was
24 just entertaining myself on the phone, I happened to go to
25 *STL Today*, saw it, kind of realized that this might be what

1 this is. I got about halfway through it, stopped. I can
2 tell you specifically what I know.

MS. COSTANTIN: Yeah, exactly. That would be great.

4 **JUROR NO. 47:** That it was a hung jury. I believe --
5 and I don't know, this is just my recollection, that there
6 are two people that pled guilty. I'm not sure about that.
7 Again, that may be completely inaccurate. And that would be
8 the extent of what I know.

9 **MS. COSTANTIN:** Do you recall any of the facts or
10 anything from the -- what you read or heard?

11 **JUROR NO. 47:** There was a trial in March. One
12 person, it was a 6-to-6 vote and the other it was 10-to-2.
13 Again, it's at that point is when I realized that this very
14 well could be the case because the article specifically said
15 that jury selection for the case was today, and I realized
16 where I was sitting and -- yeah.

17 MS. COSTANTIN: Okay. Judge could we approach?

* * *

19 *(Discussion held at sidebar between the Court and*
20 *counsel as follows:)*

21 **MS. COSTANTIN:** Judge, I was just looking over strike
22 him for cause because he knows all about the previous trial.

23 **MR. ROSENBLUM:** No objection.

(End of discussion at sidebar.)

* * *

1 **THE COURT:** Just so -- yeah, just a minute. I always
2 get ahead of myself. Sorry about that.

3 Mr. Boyle, just so you understand, you've done nothing
4 wrong. You answered honestly and that's part of the
5 process. So you're going to be excused just because of what
6 you already know about the case. But it's not personal.
7 Just make sure you understand that we appreciate so much you
8 being here, and that's the process we go through to find out
9 if anybody knows about the case. Okay?

10 All right. So you are excused and the clerk will take
11 you out this door, and you can go home you don't have to
12 stick around.

13 Sharon, Number 54.

14 **DEPUTY CLERK:** Judge, that's Rhonda back there.

15 **THE COURT:** I'm sorry?

16 **DEPUTY CLERK:** Rhonda.

17 **THE COURT:** Yeah, Rhonda.

18 *(Juror No. 48 exits the courtroom; Juror No. 54 enters
19 the courtroom.)*

20 **THE COURT:** Would you tap on that microphone to make
21 sure it's on. It might be need to be pulled down a little
22 bit.

23 **JUROR NO. 54:** I'm not sure.

24 **THE COURT:** There you go. Whenever you're ready,
25 Ms. Costantin.

1 **MS. COSTANTIN:** Ma'am, you indicated that you knew --
2 had heard some publicity about the case. Can you --

3 **JUROR NO. 54:** I read the paper every day. I've read
4 every article that's ever been written about it.

5 **MS. COSTANTIN:** Okay. So do you basically know
6 everything about the case?

7 **JUROR NO. 54:** Yes.

8 **MS. COSTANTIN:** Okay. All right. On a completely
9 unrelated matter, why is it a crime to have a metal detector
10 in a national park?

11 **JUROR NO. 54:** It was a Civil War battlefield.

12 **MS. COSTANTIN:** But why is it a crime to have a metal
13 detector?

14 **JUROR NO. 54:** It's a crime to have it if you don't
15 have batteries removed and separated from the metal detector
16 itself. They have to be one in the trunk, one in the glove
17 compartment.

18 **MS. COSTANTIN:** Because somehow it's like -- it's
19 artifacts, is that the idea?

20 **JUROR NO. 54:** Yes.

21 **MS. COSTANTIN:** All right. That's all.

22 Judge, if we can approach. I mean I think we're
23 gonna -- I'll make a motion for cause to strike.

24 **MR. ROSENBLUM:** No objection.

25 **THE COURT:** Okay. Not because of anything you said

1 here or did wrong. You just listen to the news. And so
2 you'll be excused. But I just want to make sure we
3 appreciate your service and someone will be escorting you
4 out this door right over here in just a moment.

5 **JUROR NO. 54:** Thank you.

6 **THE COURT:** Rhonda, the next one would be Number 59.
7 It will be just a moment.

8 **(Juror No. 54 exits the courtroom; Juror No. 59 enters
the courtroom.)**

9
10 **MS. COSTANTIN:** You indicated that you knew -- had
11 heard about this case, some sort of publicity; is that
12 correct?

13 **JUROR NO. 59:** On TV, news.

14 **MS. COSTANTIN:** All right. So it would have been
15 through the TV news?

16 **JUROR NO. 59:** Uh-huh.

17 **MS. COSTANTIN:** Okay. And tell me roughly what time
18 that you learned about it, or when's the most recent time
19 you heard about it?

20 **JUROR NO. 59:** This morning, last night. When I woke
21 up and said it was coming to court today, and I went, okay.

22 **MS. COSTANTIN:** Tell me what information you learned
23 from the news about the case.

24 **JUROR NO. 59:** Well, back in 2017 when it started I
25 was, of course, watching everything on TV. I was born and

1 raised in Minnesota so it was important to me to pay
2 attention to all of it, not just part of it.

3 **MS. COSTANTIN:** Okay.

4 **JUROR NO. 59:** And the protests were part of it.

5 **MS. COSTANTIN:** And you say you were born in
6 Minnesota. Is that a reference to what happened with
7 George Floyd in Minnesota?

8 **JUROR NO. 59:** It was part of it, yeah.

9 **MS. COSTANTIN:** So this case occurred before the
10 George Floyd case. What you're saying is that you followed
11 what was going on?

12 **JUROR NO. 59:** All the protesting going on.

13 **MS. COSTANTIN:** Okay. And based on that -- well,
14 first of all, I guess what we're trying to do is find out
15 what information you know about this case specifically apart
16 from what you might actually learn in court. So did you --

17 **JUROR NO. 59:** Little to nothing.

18 **MS. COSTANTIN:** So you were following the protests but
19 not the actual incident or charges?

20 **JUROR NO. 59:** I saw the clips on TV just like
21 everybody else did.

22 **MS. COSTANTIN:** Okay. And do you know what the -- to
23 your knowledge, what is this case about?

24 **JUROR NO. 59:** This particular case?

25 **MS. COSTANTIN:** This particular case. I'm sorry.

1 **JUROR NO. 59:** Two gentlemen that are police officers
2 that are being accused of hurting another police officer.

3 **MS. COSTANTIN:** Okay. All right. Is there anything
4 other than that that you know from the news or any other
5 source?

6 **[No audible answer.]**

7 **MS. COSTANTIN:** When you heard about the case, or with
8 the information you learned about the case, did you come to
9 an opinion or come to a conclusion when you heard it?

10 **JUROR NO. 59:** I didn't have all the facts. No.

11 **MS. COSTANTIN:** All right. And whatever -- as you
12 listen to this case, if you hear things and you hear
13 evidence in the court, is that going to bring back other
14 coverage or do you think not?

15 **JUROR NO. 59:** It doesn't matter because the facts are
16 here. The TV puts it their own way.

17 **MS. COSTANTIN:** Exactly. So that's my question. Are
18 you going to be able to judge this case solely on the facts
19 as they come into evidence?

20 **JUROR NO. 59:** Yes.

21 **MS. COSTANTIN:** You know about this case, but there's
22 nothing about the publicity or that you've learned about the
23 case that causes you to reach an opinion or prevent you from
24 being able to decide this case only on the evidence in
25 court?

1 **JUROR NO. 59:** Just on the evidence here.

2 **MS. COSTANTIN:** Okay. All right. And in regards to
3 what you read this morning, did you -- was it simply the TV
4 news or did you look at anything on the internet?

5 **JUROR NO. 59:** I deliberately didn't. I saw it on a
6 clip on the news and went, okay.

7 **MS. COSTANTIN:** Okay. All right. And then you -- if
8 they were going to tell you anything more about it, you
9 avoided that information?

10 **JUROR NO. 59:** I didn't -- I shut it off.

11 **MS. COSTANTIN:** Thank you. I think they've got
12 questions for you.

13 **JUROR NO. 59:** I'm sorry.

14 **MR. ROSENBLUM:** Good afternoon, Ms. Seib. I just want
15 to unpack a little bit about what you've said. So you were
16 watching the news last night and this morning?

17 **JUROR NO. 59:** Yeah. I always watch the weather once
18 the weather comes on. If the Cardinals won, I watch that;
19 if they lost, I shut it off.

20 **MR. ROSENBLUM:** You've been depressed lately about
21 those Cardinals, haven't you?

22 **JUROR NO. 59:** That's why I've been shutting it off.

23 **MR. ROSENBLUM:** So last night you were aware that you
24 were called as a prospective juror in this case; is that
25 correct?

1 **JUROR NO. 59:** I knew I was coming to the courthouse
2 today, but --

3 **MR. ROSENBLUM:** Did I understand it correctly, is that
4 why you saw it and shut it down, the same thing that you did
5 this morning?

6 **JUROR NO. 59:** Yeah, because I didn't want to sway it.

7 **MR. ROSENBLUM:** And you said that when it first
8 started, and everything that you learned that you spoke to
9 Ms. Costantin about, you said that you recall a video with
10 respect to this case?

11 **JUROR NO. 59:** It was in a clip on the news that comes
12 through. That's why I knew their faces. Otherwise, I
13 wouldn't have known them from Adam.

14 **MR. ROSENBLUM:** So -- okay. I'm sorry. How do you
15 know their faces?

16 **JUROR NO. 59:** Just on TV, on the news when they had
17 the clip.

18 **MR. ROSENBLUM:** Okay.

19 **JUROR NO. 59:** That's all.

20 **MR. ROSENBLUM:** All right. So you don't have any
21 other information specifically with respect to this case?

22 **JUROR NO. 59:** No.

23 **MR. ROSENBLUM:** And then you said you're from
24 Minnesota and you follow all the protests?

25 **JUROR NO. 59:** I have been, yes.

1 **MR. ROSENBLUM:** Did you have -- at any point along the
2 way have you -- were you following out of curiosity or did
3 you follow them because you had an opinion one way or the
4 other about protests generally or specifically any
5 particular protest?

6 **JUROR NO. 59:** I taught first grade for 22 years.
7 There are two sides to every story.

8 **MR. ROSENBLUM:** Not three?

9 **JUROR NO. 59:** Nope; two, yours and mine. Don't have
10 to agree. I don't have to be right all the time.

11 **MR. ROSENBLUM:** Okay. So along the way did you form
12 any opinions about any of the protests that you were
13 following, whether you agreed with them or not agreed with
14 them or anything of that nature, or just listened?

15 **JUROR NO. 59:** Not really because I didn't have all
16 the information that everybody else did. You know, when
17 they go to court, they have all the information. I didn't.

18 **MR. ROSENBLUM:** That's a perfect answer. So at the
19 end of the day what you're telling this Court and the
20 lawyers are that you will only decide this case from what
21 you hear from the witness stand and the law that His Honor
22 will read to you at the conclusion of the case?

23 **JUROR NO. 59:** I have to.

24 **MR. ROSENBLUM:** Thank you.

25 **THE COURT:** Back with the other panel?

1 **MS. COSTANTIN:** Yeah, Judge.

2 **THE COURT:** Okay. Thank you very much. You'll go
3 back to the other group.

4 *(Juror No. 59 exits the courtroom.)*

5 **THE COURT:** This is the one that someone said they
6 told --

7 **DEPUTY CLERK:** Yes.

8 **THE COURT:** -- them they knew something about the case
9 after they were -- after they went outside?

10 **DEPUTY CLERK:** Yes.

11 *(Juror No. 41 enters the courtroom.)*

12 **THE COURT:** Thank you for recollecting something.
13 That's what we understand afterwards, and so you did the
14 right thing. Appreciate it. And there will be some
15 questions. Just a second. And you can take your mask down
16 if you want to answer the questions.

17 **MS. COSTANTIN:** You, I guess, indicated that you might
18 have heard something about the case?

19 **JUROR NO. 41:** I feel like I recall the headline. I
20 don't know that I know the details of it, but after we kind
21 of went over everything and then went through the -- more
22 details, the names, I do recall a headline about it, but
23 that's about the extent.

24 **MS. COSTANTIN:** What do you recall basically is all
25 we --

1 **JUROR NO. 41:** I recall hearing a on-duty officer
2 involved with a undercover officer, and that was an
3 altercation at an event, at a protest, I believe, that was
4 in the St. Louis area. That's about the extent of what I --
5 also, I think pretty much what Your Honor said earlier, but
6 just wanted to make sure that was clear.

7 **MS. COSTANTIN:** Is there a -- would you be able to set
8 aside the little bit you know about it and judge the case
9 based on the evidence as you hear it?

10 **JUROR NO. 41:** Absolutely.

11 **MS. COSTANTIN:** Okay. Judge, I don't have anything
12 more.

13 **MR. ROSENBLUM:** Good afternoon. So you just read
14 briefly a headline, is that it?

15 **JUROR NO. 41:** Yes.

16 **MR. ROSENBLUM:** You didn't read the body of any
17 article?

18 **JUROR NO. 41:** I don't recall reading any more into
19 it. I just kind of slip through the news every once in a
20 while and I --

21 **MR. ROSENBLUM:** That would have been from the
22 beginning of the case up 'til the present?

23 **JUROR NO. 41:** Would you repeat that.

24 **MR. ROSENBLUM:** That would have been all the news, all
25 the information you would have received throughout the

1 entire time?

2 **JUROR NO. 41:** I think I saw it when it first happened
3 go by the newslines, and that was it.

4 **MR. ROSENBLUM:** When it first happened do you recall
5 forming any opinion one way or the other?

6 **JUROR NO. 41:** No.

7 **MR. ROSENBLUM:** Do you ever recall having any
8 discussions with anybody about the case?

9 **JUROR NO. 41:** Other than saying, *Hey, this just*
10 *happened in St. Louis*, I didn't discuss anything further
11 than that.

12 **MR. ROSENBLUM:** Do you recall when you said, *Hey, this*
13 *just happened in St. Louis*, whether or not that followed an
14 opinion one way or the other as to --

15 **JUROR NO. 41:** No. I think everybody was just
16 concerned, of course, about the environment and everything
17 going on, just staying aware what was going on in the City.

18 **MR. ROSENBLUM:** And as of now do you have any opinion
19 about the case?

20 **JUROR NO. 41:** No, I do not.

21 **MR. ROSENBLUM:** You have an open mind?

22 **JUROR NO. 41:** I do.

23 **MR. ROSENBLUM:** You'll decide the case just on the
24 evidence and the law the judge will give to you at the close
25 of the case?

1 **JUROR NO. 41:** Absolutely.

2 **MR. ROSENBLUM:** Thank you.

3 **THE COURT:** Okay. You may join the others.

4 *(Juror No. 41 exits the courtroom.)*

5 **THE COURT:** I'm inclined to bring in Number 38 and
6 allow her to remain at her seat as we proceed with the
7 voir dire, except -- if there's anyone in the group that
8 needs a brief recess, I don't want to deprive you of that.

9 **MS. COSTANTIN:** I thought 38 heard about publicity.

10 **THE COURT:** Pardon me?

11 **MS. COSTANTIN:** I thought 38 said that she had heard
12 publicity on the case.

13 **THE COURT:** Yeah, I'm going to bring her in.

14 **MS. COSTANTIN:** Oh, okay.

15 **THE COURT:** What I'm saying is --

16 *(Simultaneous crosstalk.)*

17 **MS. COSTANTIN:** Okay. I misunderstood.

18 **THE COURT:** I'm going to leave her seated and then go
19 right into voir dire, unless you want a break.

20 **MR. ROSENBLUM:** I wouldn't mind a three-minute break.

21 **DEPUTY CLERK:** Number 36 knows you.

22 **THE COURT:** She knows me?

23 **DEPUTY CLERK:** Thirty-six.

24 **THE COURT:** Thirty-six, Karin King. Well, I'll be
25 eager to get reunited. I don't remember her, but that's

1 good. Have her come in first, 36.

2 **(Juror No. 36 enters the courtroom.)**

3 **THE COURT:** You can take your mask down. Could you --
4 someone had reported that we were acquainted and I just
5 wanted to have you explain the nature of that acquaintance.

6 **JUROR NO. 36:** Well, I think your nephew was married
7 to my niece. Joey.

8 **THE COURT:** Oh, yes. Okay. Joey O'Connell.

9 **JUROR NO. 36:** Joey O'Connell.

10 **THE COURT:** Is my -- Ann O'Connell is his mother.
11 Ann O'Connell was my wife's sister.

12 **JUROR NO. 36:** Yes. And I'm Shelly's niece -- I mean
13 aunt. Shantel's [phonetic].

14 **THE COURT:** Shantel, right. Okay. Go ahead and
15 inquire if you care to.

16 **MS. COSTANTIN:** Is there anything about that
17 relationship that would prevent you from being able to
18 listen to the evidence here?

19 **JUROR NO. 36:** No, no. I just wanted to let everybody
20 know.

21 **THE COURT:** You did the right thing. I appreciate it.
22 Thank you.

23 **MR. ROSENBLUM:** No questions.

24 **THE COURT:** Okay. Thank you. You may rejoin.

25 **(Juror No. 36 exits the courtroom.)**

1 **THE COURT:** And would you ask Number 38 to come in,
2 please. We'll have Number 38 come in and just have her
3 remain seated, and then we'll take a brief recess, restroom
4 break, or whatever you need to do.

5 It seems a little unlikely to me that we're going to
6 finish this by 5:00. Any views about that?

7 **MS. COSTANTIN:** I agree with you, Judge.

8 **THE COURT:** Okay. We'll have a visit with 38 and then
9 we need to talk again, I think.

10 *(Juror No. 38 enters the courtroom.)*

11 **THE COURT:** All right. You may take the mask down as
12 you speak. Thank you.

13 Go ahead and inquire, Ms. Costantin.

14 **MS. COSTANTIN:** Ma'am, you indicated that you knew
15 something about this case from watching the news.

16 **JUROR NO. 38:** I believe so. And if I could reflect
17 on this, what this case is.

18 **MR. ROSENBLUM:** I have a hard time hearing.

19 **MS. COSTANTIN:** What do you remember --

20 **JUROR NO. 38:** Can I reflect on what I think it's
21 about?

22 **MS. COSTANTIN:** Yep, exactly. That's exactly what I
23 want to know.

24 **JUROR NO. 38:** Okay. I'm thinking it's about the
25 officer. Okay. They were protesting and an undercover

1 officer was beaten by the police. Is this case about that?

2 **MS. COSTANTIN:** Okay. The question's: Do you
3 remember any more details other than what you just said?

4 **JUROR NO. 38:** Actually, remembering on -- he was
5 beaten by more than one person, more than one officer, and
6 they stomped him and they -- they stomped him and kicked
7 him, even though he was hollering who he was, and my
8 understanding, remembering that a couple of them knew who he
9 was.

10 **MR. ROSENBLUM:** I missed that last part.

11 **JUROR NO. 38:** A couple of them knew who he was, he
12 was an undercover cop. I mean he was undercover. He's out
13 there protesting.

14 **MS. COSTANTIN:** So you've heard some information from
15 the news about the case, and what the question we have for
16 you is: Would you be able to set that aside and decide this
17 case only on the evidence that you hear in court? You
18 remember that, but you have to put that aside. Can you put
19 that aside and listen to the evidence, the witnesses and the
20 physical evidence, and decide the case only on the evidence
21 you hear in court?

22 **JUROR NO. 38:** My personal experience? I know the
23 judge had said about -- would anybody reflect back to
24 Breonna Taylor now. And I don't know because I don't
25 believe the system is right. My personal experience, I lost

1 my baby brother, he was murdered. My baby brother was about
2 32; I'm 63. And I don't think that was fair, the conviction
3 that the man had got. He was able to get parole in seven
4 years and he was able to go up on parole in about seven
5 years on a premeditated murder, and he killed my brother out
6 of jealousy on what he had. My brother Ronzea [phonetic]
7 had a house, my brother Ronzea had a car, all this stuff.
8 My brother worked two jobs for it.

9 And also, my nephew, great-nephew, who had to plead
10 guilty was told -- he sold drugs to his wife and someone
11 else shot her, but my nephew, he pleaded guilty that he did
12 the sale. So they was looking for who murdered the woman.
13 So they couldn't find who murdered the woman so they took
14 him and had him where his story was telling his momma and
15 they took this case from, I guess it was state or whatever,
16 to federal and telling him that you might as well plead
17 guilty because federal going to win always in court. It's
18 just a lot that bothers me about the system.

19 **MS. COSTANTIN:** I understand.

20 **JUROR NO. 38:** And I just don't feel the system -- I
21 watch a lot of things on the news. I even watch how they
22 gun down these young kids, police officer, because one had a
23 weapon or the weapon was sitting right there. Police gun
24 'em down. And then they had these two white young kids with
25 AKs shooting at them, and they say don't kill the kids. And

1 they shot the one girl but they didn't kill her, but they
2 shoot to kill the blacks.

3 **MS. COSTANTIN:** I understand.

4 **JUROR NO. 38:** Just a lot with the system and it
5 bothers me. I wrote a whole summons. I was being steady
6 called to jury duty in the other court.

7 **MS. COSTANTIN:** In the City or the County?

8 **JUROR NO. 38:** And I wrote a statement, you know, and
9 they stopped calling me. But then they started here at the
10 federal. Me, my personal self, I don't want to judge
11 nobody's life.

12 **THE COURT:** Do you have any other questions?

13 **JUROR NO. 38:** I don't want to judge nobody's life. I
14 only want to live -- obey the laws and live the rest of my
15 life out but not pass judgment on nobody else.

16 **THE COURT:** Do you have any other questions,
17 Ms. Costantin?

18 **MS. COSTANTIN:** No, I do not, Your Honor.

19 **THE COURT:** All right. Mr. -- whenever you're ready.

20 **MR. ROSENBLUM:** I think we've agreed we can thank and
21 excuse.

22 **THE COURT:** Is that correct? Okay.

23 First of all, I want to make sure you understand how
24 much everyone appreciates you being here and participating,
25 and there's nothing that you said or have done that

1 indicates that you're not a good person or anything like
2 that. It's -- the process goes through gathering
3 information on each person to see if they can put aside all
4 the things that have happened in the past. And so you'll be
5 excused with our gratitude for your answers. Thank you.

6 **THE COURT:** That's the final one; correct?

7 **DEPUTY CLERK:** Yeah.

8 **THE COURT:** Okay. Could I make an announcement?

9 My intention is to have Kelley go to the first panel
10 and tell them that, as hard as we tried, we are -- we're
11 going past 5:00, and we're not going to be able to finish
12 with them today. They'll have to come back in the morning
13 at 9:00.

14 **MS. COSTANTIN:** Judge, I agree.

15 **MR. ROSENBLUM:** Yes, Your Honor.

16 **THE COURT:** Okay. And then this panel, I propose that
17 we keep them until we're finished, at least through
18 questioning; not necessarily through the strikes but through
19 questioning.

20 **MS. COSTANTIN:** Right. I don't think we would do
21 strikes tonight.

22 **THE COURT:** We'll do those in the morning. Okay.
23 Thank you.

24 Okay, Kelley. Tell the people on the ninth floor I'm
25 sorry, we really tried, but we can't get this done before

1 5:00.

2 **DEPUTY CLERK:** Okay. I'll just have them be back
3 tomorrow at nine.

4 *(Juror No. 38 exits the courtroom.)*

5 **THE COURT:** Okay. We're going to go ahead and take a
6 recess at this time, five minutes.

7 *(Court recessed from 3:36 p.m. to 3:41 p.m.)*

8 *(Proceedings reconvened in open court outside the
9 presence of the jury:)*

10 **THE COURT:** What my practice is, instead of marking
11 them off the bottom of the list, we put all the numbers in a
12 basket and pull them out, and so everyone has an equal
13 chance to serve. Is that what you meant?

14 **MS. COSTANTIN:** Yes, Judge, but I mean we can do it
15 the other way. We can just do it the regular way. That's
16 fine.

17 **THE COURT:** Okay. I'll do it.

18 **MR. ROSENBLUM:** I think we could just do either the
19 first 28, whatever. Whatever you want to do.

20 **THE COURT:** All right.

21 **MR. ROSENBLUM:** We're going to wind up with 40, so
22 anyone past 40's going to be lopped off; right?

23 *(Voir dire panel enters the courtroom.)*

24 **THE COURT:** Whenever you're ready, Ms. Costantin.

25 **MS. COSTANTIN:** Thank you, Judge.

1 The first question I want to ask is basically the last
2 question the judge asked, which is -- now you've had some
3 time to reflect on it. This case involves a situation which
4 an undercover detective whose name is Luther Hall was
5 working during the protests that occurred after the Stockley
6 verdict in September of 2017. Officer Boone is charged with
7 violating his civil rights through participating in an
8 assault. Officer Myers is charged with smashing his phone.

9 With that bare minimal facts, does anyone recall
10 reading any news reports about this, either at the time or
11 any time between 2017 and now? If so, please raise your
12 hand. Mr. Schultz, Number 57, could you come up. We're
13 going to go to the bench.

14 * * * *

15 *(Discussion held at sidebar with Juror No. 57, the
16 Court, and counsel as follows:)*

17 **THE COURT:** They're going to have some questions for
18 you. First, this is Ms. Costantin. She'll be asking you
19 some questions, and then after that, Mr. Rosenblum will have
20 some questions. Go ahead.

21 **MS. COSTANTIN:** What do you remember about the news
22 reports?

23 **JUROR NO. 57:** I just remember seeing it on the news
24 on TV. I was sitting out there during this wait I kept
25 thinking about that. I was like, man, I remember seeing

1 this on TV. I thought this is going to be biased on my part
2 to have an opinion related from that news article.

3 **MS. COSTANTIN:** And that's really the question.
4 That's exactly the question. What do you remember about the
5 news article?

6 **JUROR NO. 57:** It was just -- I remember them talking
7 about what happened at that scene, what was going on, and I
8 thought, man, why would they be treating this guy that
9 baddive they knew he was an undercover cop?

10 **MS. COSTANTIN:** Okay. The fact -- so at that time
11 when you read it you kind of reached an opinion about that
12 was bad?

13 **JUROR NO. 57:** Oddly enough, yeah.

14 **MS. COSTANTIN:** Not oddly enough. You're allowed to
15 reach an opinion. The question is: Can you set that aside
16 and judge the case only on the facts or is that always going
17 to be in your head?

18 **JUROR NO. 57:** It's always going to be in my head.

19 **THE COURT:** I didn't hear your answer.

20 **JUROR NO. 57:** That's probably always going to be in
21 my head.

22 **MR. ROSENBLUM:** I have no questions.

23 **THE COURT:** What we're going to do is, Kelley will
24 just walk out with you, and you'll be excused. This is not
25 anything bad you did; it's just going through the process of

1 trying to get jurors who know nothing about the case. So
2 don't feel like anybody's found anything wrong with you.
3 That's not the case, okay?

4 || **JUROR NO. 57:** Okay. Thank you.

5 || *(End of discussion at sidebar.)*

6 || * * * *

7 || (Juror No. 57 exits the courtroom.)

8 **MS. COSTANTIN:** I'm not going to go through the whole
9 fact situation again, but is there anybody else with those
10 little bits of facts that I've just said, is there anybody
11 else who now remembers, oh, yeah, I read news reports on it?
12 If so, please raise your hand, unless you've already -- I'm
13 sorry. Unless we've already talked to you. We don't need
14 to go back to that. I'm sorry.

15 As citizens we have three contacts with the criminal
16 justice system: As you sit here as jurors, victim of a
17 crime and/or we have someone close to us is charged with a
18 crime. I'm going to go through those a little bit right
19 now.

20 It appeared from the jury questionnaires that only one
21 person had prior jury service, unless I missed something.
22 And that -- I believe Number 52, Ms. Golden. Yes. Is there
23 anything about that prior jury service that was negative and
24 would prevent you from being fair and impartial in this
25 case?

1 **JUROR NO. 52:** No. It was in Washington County
2 because that's where I lived at the time. Just taught me
3 some things, that's all.

4 **MS. COSTANTIN:** Okay. But you'd be able to listen to
5 this case and listen to the evidence in this case and reach
6 a decision based on that?

7 **JUROR NO. 52:** Sure.

8 **MS. COSTANTIN:** Okay. The judge talked about some
9 important concepts. I must show the defendants are guilty
10 beyond a reasonable doubt. That's higher than a
11 preponderance of the evidence but it's not beyond all doubt,
12 and the judge will define "reasonable doubt."

13 Is everyone here going to be able to follow that
14 instruction from the judge? If not, please raise your hand.

15 As I said, sometimes we or someone close to us is a
16 victim of a crime, and in those jury questionnaires several
17 of you have filled out some information. I just want to ask
18 you about that.

19 Mr. -- 38. No, I'm sorry. Forty-nine. Apologize.
20 Mr. Cobb, you indicated that both your --

21 **THE COURT:** What number?

22 **MS. COSTANTIN:** Forty-nine. You indicated that both
23 your brother and his wife were murdered --

24 **JUROR NO. 49:** Correct.

25 **MS. COSTANTIN:** -- is that correct? How long ago was

1 that?

2 **JUROR NO. 49:** Just over two years.

3 **MS. COSTANTIN:** Okay. Is that -- has anyone been
4 caught or prosecuted for that?

5 **JUROR NO. 49:** The case is still pending. The trial
6 is August, I believe, in North Dakota.

7 **MS. COSTANTIN:** Oh, in North Dakota. All right. Is
8 there anything about that -- I'm assuming you're in touch
9 and knowing what's going on and all that sort of thing?

10 **JUROR NO. 49:** Yes.

11 **MS. COSTANTIN:** Is there anything about that, the fact
12 that your close relatives were victims of a brutal crime,
13 that would prevent you from being fair in this case?

14 **JUROR NO. 49:** No, ma'am.

15 **MS. COSTANTIN:** Okay. Thank you, sir.

16 The other way that we have contact with the criminal
17 justice system is when we or someone close to us has been
18 arrested. And, once again, going to the jury
19 questionnaires, there's several people who someone close to
20 them has been arrested. Ms. Ivie, I believe you had a
21 cousin who was prosecuted for robbery?

22 **JUROR NO. 35:** Yes.

23 **THE COURT:** What number?

24 **MS. COSTANTIN:** I'm sorry. 35. Sorry, Judge. And do
25 you feel that the outcome in that case was fair or do you

1 feel that it was -- or do you have an opinion?

2 **JUROR NO. 35:** I don't think I know enough facts about
3 it to have much of an opinion, to be honest.

4 **MS. COSTANTIN:** I'm supposed to remind everybody that
5 when they speak they can take their masks off because it's
6 hard for the court reporter.

7 **JUROR NO. 35:** I have a quiet voice, too.

8 **MS. COSTANTIN:** You don't think you have enough facts
9 in order to have an opinion one way or the other?

10 **JUROR NO. 35:** Yeah.

11 **MS. COSTANTIN:** Just the fact that you have a relative
12 that was prosecuted, anything that would prevent you from
13 being fair and impartial in this case?

14 **JUROR NO. 35:** No.

15 **MS. COSTANTIN:** Okay. Number 34, you indicated on the
16 questionnaire that you had -- Mr. Boyd, that you had a
17 cousin who was charged with robbery.

18 **JUROR NO. 34:** Right.

19 **MS. COSTANTIN:** First of all, do you believe that the
20 result there, the outcome, was fair in that case?

21 **JUROR NO. 34:** Yes.

22 **MS. COSTANTIN:** Is there anything about that case that
23 would prevent you from being fair and impartial in this
24 case?

25 **JUROR NO. 34:** No.

1 **MS. COSTANTIN:** Okay. Number 36, Ms. King. Actually,
2 I think I'm wrong. Did you have a relative who was -- did
3 you have a relative who was arrested? I'm trying to read my
4 notes. I have bad handwriting. I'm sorry. You had an
5 ex-husband who was in prison; is that correct?

6 **JUROR NO. 36:** That's correct.

7 **MS. COSTANTIN:** Do you think that outcome was fair in
8 that case or not?

9 **JUROR NO. 36:** That's been 20 years ago, so -- no, I
10 think he got what he deserved.

11 **MS. COSTANTIN:** Okay. Is there anything about that
12 case that would prevent you from being fair and impartial in
13 this case?

14 **JUROR NO. 36:** No.

15 **MS. COSTANTIN:** Okay. Can you pass the mic -- oh,
16 wait. Hold on. That person is --

17 Number 46, Mr. Anderson, you indicated there's a DWI;
18 is that correct?

19 **JUROR NO. 46:** Correct.

20 **MS. COSTANTIN:** Do you believe that the outcome was
21 fair in that case or not?

22 **JUROR NO. 46:** Yeah.

23 **MS. COSTANTIN:** I'm sorry. Your answer is "yes"?

24 **JUROR NO. 46:** Yes.

25 **MS. COSTANTIN:** Okay. Is there anything about that

1 case that would prevent you from being a fair and impartial
2 juror in this case?

3 **JUROR NO. 46:** No.

4 **MS. COSTANTIN:** Number 50, Mr. -- I can't say your
5 last name right. "Vow"?

6 **JUROR NO. 50:** "Vee-oh."

7 **MS. COSTANTIN:** "Vee-oh." You indicated that in your
8 younger days that you had some arrests.

9 **JUROR NO. 50:** [Inaudible.]

10 **COURT REPORTER:** I can't hear you, sir.

11 **JUROR NO. 50:** It was all as a kid.

12 **MS. COSTANTIN:** You gotta hold it up. You gotta hold
13 the mic up.

14 **JUROR NO. 50:** As a juvenile. Yeah, I learned all my
15 lessons the hard way.

16 **MS. COSTANTIN:** Okay. Is there anything -- well,
17 first of all, do you feel that the outcome was fair and what
18 happened with you or do you feel you were being picked on in
19 those situations?

20 **JUROR NO. 50:** Not at all. It was bad decisions.

21 **MS. COSTANTIN:** Okay. Is there anything about that
22 experience that would prevent you from being fair in this
23 case?

24 **JUROR NO. 50:** No, ma'am.

25 **MS. COSTANTIN:** Okay. Thanks.

1 And, Mr. "Krummer" -- or Kremer. Number 51. I'm
2 sorry. You indicated there was a very, very old charge that
3 got dropped; correct?

4 **JUROR NO. 51:** Correct.

5 **MS. COSTANTIN:** Okay. Anything about that that would
6 prevent you from being a fair and impartial juror?

7 **JUROR NO. 51:** Oh, no. It worked out just fine for
8 me, so yes.

9 **MS. COSTANTIN:** All right. And you also indicated
10 that you had a relative who had a DWI. Is there anything
11 about that that would prevent you from being fair?

12 **JUROR NO. 51:** No, no. That all worked out good, too.

13 **MS. COSTANTIN:** Okay. And Mr. -- Number 53,
14 Mr. Bowler, you indicated you had a relative who had a DWI;
15 is that right?

16 **JUROR NO. 54:** Yes.

17 **MS. COSTANTIN:** Do you feel that the outcome there was
18 fair or --

19 **JUROR NO. 54:** Yes.

20 **MS. COSTANTIN:** Okay. Anything about that that would
21 prevent you from being a fair and impartial juror?

22 **JUROR NO. 54:** No.

23 **MS. COSTANTIN:** No? You have to answer out loud.

24 **JUROR NO. 54:** No.

25 **MS. COSTANTIN:** Okay. Thanks.

1 Mr. Hibbler. Number 58. I'm sorry. You indicated
2 that you knew someone who was in prison in another state, in
3 Virginia; is that correct?

4 **JUROR NO. 58:** Correct.

5 **MS. COSTANTIN:** Okay. Do you believe that the outcome
6 was fair in that situation or not?

7 **JUROR NO. 58:** Yes.

8 **MS. COSTANTIN:** Okay. Is there anything about that
9 situation that would prevent you from being fair and
10 impartial in this case?

11 **JUROR NO. 58:** No, ma'am.

12 **MS. COSTANTIN:** Okay. Thank you.

13 Has anyone here ever been a witness in a case, as in
14 had to come in to court and actually testify from the
15 witness stand? If so, please raise your hand.

16 I did not see that. I'm sorry. Forty-two. Is it
17 Schaben?

18 **JUROR NO. 42:** Yes.

19 **MS. COSTANTIN:** Can you tell me what that involved.

20 **JUROR NO. 42:** It was guardianship hearings.

21 **MS. COSTANTIN:** Oh, a guardianship hearing?

22 **JUROR NO. 42:** Uh-huh.

23 **MS. COSTANTIN:** I'm sorry, I didn't hear that last
24 part.

25 **JUROR NO. 42:** I work for the State of Missouri so I

1 did guardianship hearings quite often.

2 **MS. COSTANTIN:** So you testified quite a bit in those
3 situations. Anything about that experience testifying that
4 would negatively affect your being a juror?

5 **JUROR NO. 42:** No.

6 **MS. COSTANTIN:** Okay. That's all I have. Thank you.

7 I anticipate that you're going to hear testimony from
8 both police officers as well as federal agents in this case,
9 and the judge is going to give you an instruction concerning
10 the credibility of witnesses. And do you understand that
11 that same instruction is used to judge the credibility of
12 all witnesses, whether someone's a police officer or not a
13 police officer? Does anyone have a problem with that?

14 A number of people have indicated that they have
15 friends or family members who are in law enforcement, and I
16 just want to quickly go through some of that and ask you
17 sort of the same set of questions.

18 Number 33, Ms. Biggerstaff, you indicated that your
19 husband was a former Maplewood police chief; is that
20 correct?

21 **JUROR NO. 33:** Yes.

22 **MS. COSTANTIN:** Okay. Would you be able to set aside
23 that relationship and judge this case on the evidence as you
24 hear it from the witness stand as well as the physical
25 evidence that you'll observe?

1 **JUROR NO. 33:** Yes, I would.

2 **MS. COSTANTIN:** Okay. Thank you, ma'am.

3 We can pass it down to Ms. Ivie because Ms. Ivie has
4 relatives who are police officers as well.

5 Same question for you, ma'am: Would you be able to
6 set aside the relationship that you have with your -- I
7 guess your sister and your brother-in-law, as well as some
8 friends, and judge this case solely on the evidence that
9 comes into court?

10 **JUROR NO. 35:** Yes.

11 **MS. COSTANTIN:** Okay. Ms. -- Number 36. I'm sorry.
12 Ms. King. Ms. King, were you yourself a correctional
13 officer at Maryville Treatment Center?

14 **JUROR NO. 36:** Yes.

15 **MS. COSTANTIN:** For about how long was that?

16 **JUROR NO. 36:** About two years.

17 **MS. COSTANTIN:** Is there anything about that
18 experience that would prevent you from being able to listen
19 to the evidence in this case and judge the case solely on
20 this evidence?

21 **JUROR NO. 36:** No.

22 **MS. COSTANTIN:** Could you be fair and impartial to
23 both sides in this case?

24 **JUROR NO. 36:** Yes.

25 **MS. COSTANTIN:** Okay. Thank you. Want to pass it

1 down to -- oh, wait, no. That person's -- 49, behind you,
2 right. I was going to say, you're not that way, you're that
3 way. You indicated you had several folks who were law
4 enforcement and I wasn't sure what the connection was.

5 **JUROR NO. 39:** Retired state trooper.

6 **MS. COSTANTIN:** Okay. And are you a retired state
7 trooper or is someone --

8 **JUROR NO. 39:** No. Just the person I was -- relative
9 was.

10 **MS. COSTANTIN:** Okay. Is that someone that you have a
11 lot of contact with?

12 **JUROR NO. 39:** Yes. Family functions we always go to.

13 **MS. COSTANTIN:** Okay, all right. Would you be able to
14 set that relationship aside and judge this case solely on
15 the evidence as it comes in?

16 **JUROR NO. 39:** Yes.

17 **MS. COSTANTIN:** Pass that down to 40 -- Number 41.

18 Mr. Harmon, you indicated you had a friend who was a
19 police officer in O'Fallon; is that correct?

20 **JUROR NO. 41:** That's correct.

21 **MS. COSTANTIN:** Would you be able to set aside that
22 relationship and judge this case solely on the evidence as
23 it comes into court?

24 **JUROR NO. 41:** Yes.

25 **MS. COSTANTIN:** Thank you.

1 Number 45, Mr. Conner. You'd indicated that you knew
2 some law enforcement officers on basically all levels of law
3 enforcement.

4 **JUROR NO. 45:** I do.

5 **MS. COSTANTIN:** Can you give me some idea of where
6 they work or what they do.

7 **JUROR NO. 45:** One's a U.S. Marshal, one just
8 graduated FBI academy, officers in O'Fallon Police
9 Department.

10 **MS. COSTANTIN:** Okay. And is that -- the person who's
11 a U.S. Marshal, is that someone who's working in this
12 building?

13 **JUROR NO. 45:** No.

14 **MS. COSTANTIN:** Okay, all right. Would you be able to
15 set aside those relationships and judge this case solely on
16 the evidence you hear in court?

17 **JUROR NO. 45:** I would.

18 **MS. COSTANTIN:** Thank you, sir.

19 I'm sorry. I just want to make sure there's nobody
20 that I miss. Number 55, Mr. Polizzi. Mr. Polizzi, you
21 indicated that you had a friend who is a City police
22 officer?

23 **JUROR NO. 55:** Yes, ma'am.

24 **MS. COSTANTIN:** What is his or her name?

25 **JUROR NO. 55:** Nick Hayden.

1 **MS. COSTANTIN:** Hayden?

2 **JUROR NO. 55:** Yes, ma'am.

3 **MS. COSTANTIN:** All right. Would you be able to set
4 that -- do you know, first of all, if he was -- if that
5 officer was working in 2017 with the City police department?

6 **JUROR NO. 55:** They were, yes.

7 **MS. COSTANTIN:** Okay. Would you be able to set aside
8 that relationship and judge this case solely on the evidence
9 that comes into court?

10 **JUROR NO. 55:** Yes, I would.

11 **MS. COSTANTIN:** Okay, thank you.

12 And Ms. -- I can't say -- Ijames? Okay. Also, that's
13 56. You indicate you have brothers who are both police
14 officers and detectives?

15 **JUROR NO. 56:** Yes.

16 **MS. COSTANTIN:** On what departments are those?

17 **JUROR NO. 56:** One is with Crystal City.

18 **MR. ROSENBLUM:** Sorry, ma'am?

19 **JUROR NO. 56:** Crystal City. And the other is with
20 DeSoto.

21 **MS. COSTANTIN:** Would you be able to set aside those
22 relationships and listen to the evidence in this case and
23 judge this case solely on the evidence as it comes into
24 court?

25 **JUROR NO. 56:** Yes, ma'am.

1 **MS. COSTANTIN:** Thank you. Okay. I think that's all
2 I've got on that.

3 The judge has indicated that this case will go for two
4 weeks, which is pretty much a maximum is what we believe.
5 If there's anyone who has a scheduling problem, like an
6 unavoidable scheduling problem, please raise your hand,
7 during those two weeks time.

8 Does anyone here have any vision or hearing problems,
9 as in just being in court this afternoon they've had trouble
10 hearing people or haven't been able to see something they
11 would need to see? If so, please raise your hand.

12 Has anyone here been assaulted by law enforcement or
13 had a close friend or relative who was assaulted by law
14 enforcement? Please raise your hand, if so.

15 Now, as I said before, the defendant, former police
16 officer Dustin Boone, is charged with deprivation of civil
17 rights, and the defendant, former police officer Myers, is
18 charged with destruction of evidence. Is there anything
19 about the nature of those charges that would make any member
20 of this panel unable to be fair? Just the nature, just the
21 name of the charges basically. Does anyone think that
22 deprivation of civil rights should not be a crime? And does
23 anyone think destruction of evidence should not be a crime?
24 If so, please raise your hand.

25 Now, Defendant Boone is charged with aiding and

1 abetting the deprivation of the civil rights of Luther Hall,
2 and I want to talk for a moment about the concept of aiding
3 and abetting. I'm going to use an example to illustrate
4 this concept. And these are not the facts of this case,
5 obviously, once I start to talk about it.

6 Under aiding abetting, the law that you'll be given by
7 the Court -- under aiding abetting, if I go into a bank with
8 a gun and I rob a bank and Mr. Livergood stays outside that
9 bank in the car and drives me away from the robbery -- he's
10 the getaway driver -- he is guilty of bank robbery just like
11 I am even though he never went into the bank.

12 Does anyone think that that should not be the law,
13 that that's not fair? If so, please raise your hand.

14 If instructed that that's the law, is there anybody
15 here who could not follow the law on aiding and abetting?
16 If so, please raise your hand.

17 Let me give you another example. Under aiding and
18 abetting, if I go into that bank with a gun and I rob the
19 bank, and Mr. Livergood stays outside the bank and he's the
20 lookout to see if the police are coming, then he is guilty
21 of bank robbery because the lookout is guilty of the bank
22 robbery even if the lookout never enters the bank and never
23 had the gun. Does anyone think that that should not be the
24 law? If so, please raise your hand.

25 Is there anyone here who could not follow the law in

1 aiding abetting if they're instructed that that was the law?
2 If so, please raise your hand.

3 Now, there have been some high profile cases in the
4 news recently that were mentioned by the Court, and in some
5 of those cases there was video that recorded the entire
6 incident. Is there anyone -- let me just be clear.

7 In this case there is no video that records the entire
8 incident. Is there anyone who's just sitting here right
9 now, believes that they're going to need a video in order to
10 convict someone -- to find beyond a reasonable doubt and
11 convict somebody? If so, please raise your hand.

12 Is there anyone here, sitting here right now, who
13 believes that they'll need video evidence of the crime in
14 order to find a police officer guilty beyond a reasonable
15 doubt? If so, please raise your hand.

16 Does anyone here believe that, in order to convict a
17 police officer, that there must be a higher standard of
18 proof than reasonable doubt? If so, please raise your hand.

19 Now, you may hear testimony from a witness who pled
20 guilty and is cooperating with the investigation in hopes of
21 receiving a lower sentence, and use of such testimony from
22 cooperating witnesses is lawful and it's permitted. The
23 Court will give you an instruction concerning the rule for
24 judging the credibility of that witness. Is there anyone,
25 however, who's sitting here right now would automatically

1 disregard testimony from that witness? If so, please raise
2 your hand.

3 Now, the judge will give you the law. It's not what I
4 say it is, it's not what you think it is, it's not what
5 defense counsel says it is; it's what the judge says it is.
6 So you may have some ideas about what certain things mean
7 like "unreasonable force" or "bodily injury." You must
8 follow the Court's definition of these terms. Is there
9 anyone who would be unable to do that, follow what the Court
10 says the law is? If so, please raise your hand.

11 Is there anyone who has any personal or religious
12 reasons why they feel that they cannot sit in judgment of
13 another person? If so, please raise your hand.

14 And, finally -- and I think the judge asked this a
15 different way, too -- but is there anyone, as they sit here
16 today, says, *I have my own reason that I can't be fair but*
they just haven't asked me the right question to bring that
17 *out?* Is there anyone who's sitting here today believes that
18 or knows that they cannot be fair and impartial in this
19 case? If so, please raise your hand.

21 Judge, that's all I've got.

22 **MR. ROSENBLUM:** May it please the Court. Good
23 afternoon, ladies and gentlemen. I may ask you to raise
24 your hand from time to time. It's late in the afternoon.
25 It will keep you hopefully engaged for exercise.

1 As I said, I'm Scott Rosenblum. Along with Adam Fein
2 and Brad Bilyeu, we represent Christopher Myers. I think
3 you said nobody was familiar with me when the Court asked.
4 Is anybody familiar with my law firm -- it's in Clayton;
5 Rosenblum, Schwartz and Fry -- or had any dealings with the
6 law firm or had any dealings with me?

7 I'm going to start off -- as we've already seen as we
8 go through this process -- and really what this process is
9 about, it's the lawyers' opportunity to ask questions that
10 would ordinarily be none of our business, but as you can
11 see, we all have life experiences and, really, the only
12 issue is if any of those life experiences are such that they
13 would impact your ability to be a fair and impartial juror.

14 Again, that's why we start off with 90 jurors that
15 we're going to question potentially and we're going to wind
16 up with 12, because we realize that not everyone is best
17 suited for every particular trial.

18 I'm going to go back and start off by talking to some
19 of the jurors that Ms. Costantin has talked to about people
20 that have been charged or arrested, family members.

21 So, Ms. Ivie, you said you had a cousin that was
22 charged with robbery; correct?

23 **JUROR NO. 35:** Yes. Do you want me to wait for the
24 microphone?

25 **MR. ROSENBLUM:** Oh, I'm sorry. Number 35.

1 **JUROR NO. 35:** Yes.

2 **MR. ROSENBLUM:** Do you know which police department
3 arrested him?

4 **JUROR NO. 35:** I don't know, no.

5 **MR. ROSENBLUM:** Were you -- did you have a -- did you
6 follow him or did you have any communication with him either
7 by letter or visiting once he was incarcerated?

8 **JUROR NO. 35:** My cousin is a female.

9 **MR. ROSENBLUM:** Oh, I'm sorry.

10 **JUROR NO. 35:** It's okay. I haven't had any contact
11 with her since she's been in prison.

12 **MR. ROSENBLUM:** Okay. Thank you, Ms. Ivie.

13 And, Mr. Boyd, same series of questions. Your
14 cousin -- when was your cousin actually charged with the
15 robbery, if you recall?

16 **JUROR NO. 34:** '96.

17 **MR. ROSENBLUM:** '96. And was he a cousin that you
18 were close with?

19 **JUROR NO. 34:** Yeah.

20 **MR. ROSENBLUM:** Did you follow the case?

21 **JUROR NO. 34:** A little bit.

22 **MR. ROSENBLUM:** Little bit? Okay. And I think you
23 said that you could still be fair and impartial?

24 **JUROR NO. 34:** Yes.

25 **MR. ROSENBLUM:** Do you know which police agency or

1 department was involved?

2 **JUROR NO. 34:** This was in St. Louis when I was living
3 in Missouri -- I mean Illinois.

4 **MR. ROSENBLUM:** Okay. Do you know whether it was
5 St. Louis City police or St. Louis County?

6 **JUROR NO. 34:** County.

7 **MR. ROSENBLUM:** St. Louis County. Okay. Did you keep
8 in contact with your cousin once he was incarcerated?

9 **JUROR NO. 34:** A little bit, and his mom.

10 **MR. ROSENBLUM:** I'm sorry?

11 **JUROR NO. 34:** A little bit, and his mom.

12 **MR. ROSENBLUM:** Do you still keep in contact with his
13 mom?

14 **JUROR NO. 34:** His mom.

15 **MR. ROSENBLUM:** Do you still keep in contact with
16 him --

17 **JUROR NO. 34:** He's about to get out.

18 **MR. ROSENBLUM:** -- by visits or by letter?

19 **JUROR NO. 34:** I talked to his mom.

20 **MR. ROSENBLUM:** Just talked to his mom. Okay.

21 Nothing about that experience that would cause you any
22 concern?

23 **JUROR NO. 34:** No.

24 **MR. ROSENBLUM:** Thank you.

25 And, Ms. King, I know you indicated it was quite

1 sometime ago, but you were married to the fellow; correct?

2 **JUROR NO. 36:** Yes, for a year.

3 **MR. ROSENBLUM:** Okay. During -- once he was
4 incarcerated, even though he got what he deserved, did you
5 keep in contact with him?

6 **JUROR NO. 36:** No.

7 **MR. ROSENBLUM:** No?

8 **JUROR NO. 36:** No.

9 **MR. ROSENBLUM:** And you haven't kept in contact with
10 him since?

11 **JUROR NO. 36:** No.

12 **MR. ROSENBLUM:** Did you have any idea which police
13 agency arrested him?

14 **JUROR NO. 36:** I think he was from St. Louis
15 someplace. Spanish Lake.

16 **MR. ROSENBLUM:** St. Louis County potentially?

17 **JUROR NO. 36:** Probably. It's been quite a while ago.

18 **MR. ROSENBLUM:** Okay. No problem. Thank you.

19 And, Mr. Hibbler?

20 **DEPUTY CLERK:** Number 58.

21 **MR. ROSENBLUM:** I'm sorry, 58. Yes, sir. Thank you.
22 You said you had a friend in jail?

23 **JUROR NO. 58:** Yes.

24 **MR. ROSENBLUM:** And do you mind if I ask what the
25 charge is or was? Sorry.

1 **JUROR NO. 58:** Murder.

2 **MR. ROSENBLUM:** Was he a close friend?

3 **JUROR NO. 58:** No.

4 **MR. ROSENBLUM:** Did you keep in contact with him once
5 he was incarcerated?

6 **JUROR NO. 58:** Yes.

7 **MR. ROSENBLUM:** Do you still keep in contact with him?

8 **JUROR NO. 58:** Yes.

9 **MR. ROSENBLUM:** That's by way of letter or visits?

10 **JUROR NO. 58:** Letters.

11 **MR. ROSENBLUM:** So, regular contact?

12 **JUROR NO. 58:** Yes.

13 **MR. ROSENBLUM:** Okay. And do you -- you said you
14 don't have any -- you'd be able to put that aside?

15 **JUROR NO. 58:** Yeah.

16 **MR. ROSENBLUM:** And you think he was treated fairly?

17 **JUROR NO. 58:** Yes.

18 **MR. ROSENBLUM:** Do you know what police agency
19 arrested him?

20 **JUROR NO. 58:** It was in the State of Virginia.

21 **MR. ROSENBLUM:** Thank you, sir.

22 And on the subject of police, have any of you had
23 any -- I'm going to ask it specifically and then generally.
24 Has anybody had any negative experience with the St. Louis
25 City Police Department, or family members or close friends

1 that had a negative experience with the St. Louis City
2 Police Department? Or any police department for that
3 matter, any negative experiences with any police department.
4 Thank you.

5 As you've been told Chris Myers, who I represent, has
6 been charged in one count of knowingly damaging a phone in
7 contemplation of an investigation. Now, he's not charged
8 with the same offense as Mr. Boone. And it's going to be
9 important that you consider the evidence, and you'll be
10 instructed that you should consider the evidence separately.

11 What that means is, even though there's two
12 individuals charged, Mr. Myers -- I represent Mr. Myers and
13 only Mr. Myers. So you're going to be asked to
14 compartmentalize evidence. What the government introduces
15 with respect to Mr. Myers has to nothing to do potentially
16 with Mr. Boone and vice-versa. What they introduce against
17 Mr. Boone has nothing to do with Mr. Myers. Separate
18 charges. Do you all believe you can do that,
19 compartmentalize in such a way? Do you all think that's the
20 fair way to do it? Right? Let me see your hands. All
21 right. Thank you.

22 Now, along those same lines, if at the conclusion of
23 the case you believe that the government has failed to meet
24 its burden of proof beyond a reasonable doubt with respect
25 to Mr. Myers, would any of you have any problem returning a

1 verdict of not guilty, regardless of the evidence or how you
2 considered the evidence against Mr. Boone? Does everybody
3 understand that question? You think you would all be able
4 to do that, compartmentalize that in such a fashion? Let me
5 see your hands. Over here? All right. Thank you.

6 Now, basically, like any of us, we're to be judged on
7 our own conduct. Does that make sense? All right.

8 And as the Court -- as Ms. Costantin has said,
9 Mr. Myers has been indicted. So what is an indictment?
10 It's a piece of paper. It's the formal way that any of us
11 are made aware by our government that these are the charges
12 against you; right? It's a -- basically it's a piece of
13 paper. It's not self-proving. It's the formal notice any
14 of us receive.

15 So to put it another way, Ms. Costantin or
16 Mr. Livergood can't take this piece of paper, an indictment,
17 and put it up on the witness stand and be done. She has to
18 call witnesses. The government has to call witnesses and
19 produce evidence, whether it's documentary evidence, whether
20 it's witnesses or photos, whatever it is, to give life to
21 that indictment. Does that make sense to everybody?
22 Because without that, it fails; right?

23 And in the process of that -- first of all, the fact
24 that Mr. Myers is sitting there next to a couple lawyers, do
25 any of you believe that, because he has been charged, that

1 he must be guilty of what the government says he did, or
2 anything else? Does anybody believe that? Okay. Because
3 the law says, and you'll be instructed, that to be
4 charged -- like any citizen, like any of us, the fact that
5 he has been indicted or charged gives rise to no inference
6 and you can't consider that in any fashion that he must be
7 guilty. And that's fair, don't you think? Let me see your
8 hands. Would you all agree to follow that instruction of
9 law? We all agree -- I think we can all agree.

10 So, Mr. Myers has been charged with destruction of
11 evidence in contemplation of an investigation. And you'll
12 hear what these elements are about that the government has
13 to prove and you'll be given instructions on how to weigh
14 it. But the fact that he's been charged with such an
15 offense, that's not a good thing; right? It's awful to be
16 charged by the federal government. Can we agree? Can you
17 also agree that it's equally awful to be charged by the
18 federal government for a crime that you're not guilty of?
19 Can we agree that that's equally awful? And that's what
20 we're here for, right, to decide what the facts are, what
21 the evidence is.

22 Do you all believe in 2021 that a citizen of the
23 United States can be charged with a crime that they didn't
24 commit? Do you all agree that that's possible? Can I see
25 your hands over here? Do you think it happens?

1 Okay. Now, you heard that Mr. Myers is a police
2 officer and -- was a police officer, and he's been -- and he
3 has been charged, and I've been talking about it. As you
4 sit here now, do any of you believe -- the fact that he was
5 a police officer, does that cause you to believe that he
6 must have done something because they wouldn't have charged
7 a police officer? Does anybody think that? Or can you
8 agree that a police officer, just like any other citizen,
9 can be charged lawfully and can be charged unlawfully? Does
10 that make sense? Would you hold -- do you believe that the
11 fact that he was one time a police officer and charged makes
12 it more likely that they got it right? Does anybody, as
13 you're sitting here, think that?

14 You'll hear that the FBI was involved in the
15 investigation at some point. Do any of you believe that,
16 because the FBI was involved, that it must be more serious,
17 or that they -- that he must be guilty of what he's charged
18 with because the FBI was involved?

19 Ms. Ivie, how about you?

20 **JUROR NO. 35:** No.

21 **MR. ROSENBLUM:** Mr. Anderson, how about you?

22 **JUROR NO. 46:** No.

23 **MR. ROSENBLUM:** Would you agree that the FBI can get
24 things wrong, too? Does that make sense? Do you agree with
25 that? All right.

1 We've talked a little bit about the burden of proof,
2 and the state's asking you to convict Christopher Myers, our
3 client, deprive him of his liberty. So in a criminal case
4 the burden of proof is the highest we have, the highest in
5 the law. Ms. Costantin's correct, does not mean proof
6 beyond all possible doubt. And you'll be instructed by the
7 Court as to what it means. It's proof beyond a reasonable
8 doubt. And it's going to be incumbent upon the government
9 to prove each element of the case that they have brought
10 beyond a reasonable doubt. In fact, they would have to
11 prove that he did damage, destroy a phone, and also that he
12 did it in contemplation of an investigation. They have to
13 prove every element. If they fail on any, your verdict has
14 to be not guilty. Does that make sense? You think that's
15 the way it should be? How about over here? The right side
16 and in the middle?

17 And as we go through, as she said, you'll be
18 instructed. So as you hear this case, if at the end of the
19 case you're thinking, *Gosh, you know, I've heard it with*
20 *respect to Chris and this case sounds awfully suspicious,*
21 *awfully suspicious.* In fact, he may have done it, but it
22 doesn't rise to the level of beyond a reasonable doubt.

23 Ms. Ibarra, what would your verdict be, Number 37?

24 **JUROR NO. 37:** I'd have to know everything.

25 **MR. ROSENBLUM:** I can't hear you. Would you take your

1 mask off.

2 **JUROR NO. 37:** I'd have to know everything or know as
3 much as I possibly could.

4 **MR. ROSENBLUM:** I understand, but I'm saying that --
5 would you be able to follow the law of proof beyond a
6 reasonable doubt?

7 **JUROR NO. 37:** Yes.

8 **MR. ROSENBLUM:** And you understand if they come close,
9 it doesn't count?

10 **JUROR NO. 37:** Yes.

11 **MR. ROSENBLUM:** They can't prove a case by suspicion,
12 they can't prove a case by "it's close"; they have to prove
13 beyond a reasonable doubt.

14 **JUROR NO. 37:** Correct.

15 **MR. ROSENBLUM:** You'll hold the government to the
16 burden?

17 **JUROR NO. 37:** Yes.

18 **MR. ROSENBLUM:** Will everybody hold the government to
19 that burden? Okay. Thank you.

20 You'll see how this case unfolds and how this burden
21 applies because I anticipate the Court, His Honor, is going
22 to look at the government and say, "Ms. Costantin, you now
23 must give an opening statement." They'll look at our side
24 and say, "Mr. Rosenblum, you can choose to give an opening
25 statement or not, or waive it or delay it."

1 The same with the evidence: "You now must present
2 evidence." They'll look at the defense and say we have no
3 obligation to. And the same with the closing argument,
4 because that's the burden. It stays with the government
5 throughout the case until you complete your deliberations.

6 Now, I would anticipate -- obviously, I'm not going to
7 sit there and do nothing. Mr. Myers would probably be
8 kicking me in my shins. I anticipate that we will be
9 cross-examining witnesses, at the very minimum. And does
10 everybody understand the concept of establishing reasonable
11 doubt through cross-examination? Does that make sense?

12 Okay. Mr. Schilling, does that make sense?

13 **JUROR NO. 40:** Yes.

14 **MR. ROSENBLUM:** How about over here. Everybody
15 understand that concept? In the middle of the room? Okay
16 thank, you.

17 You've been told that this is -- has had some news
18 coverage, okay? And a number of you said that you've heard
19 the news, some of you haven't. So one of the concerns we
20 have is that when you're back -- when you're considering
21 this case and when you're deliberating this case, that you
22 give -- you may give mind or give thought to how people are
23 going to perceive me. Do you understand that your oath as a
24 juror is to decide this case from what you hear in this
25 courtroom and not give credence or not give thought to how

1 you're going to be perceived or if you're going to have to
2 explain your verdict to anybody, family members or nonfamily
3 members, whatever your verdict may be. Do you all agree
4 with that? Certainly we would want that for ourselves;
5 right? Do you agree with that over here? And over here?

6 Another principle that we've heard is the presumption
7 of innocence. Now, you know, these principles are things
8 that typically none of us have to think about unless we're
9 in this position of being a prospective juror, and then you
10 have to give thought to it, but the presumption of
11 innocence -- and certainly it protects us all, every one of
12 us and our family, and this week, to be sure, to be certain,
13 it protects Christopher Myers.

14 But basically what the presumption of innocence says
15 is that all of us, every one of us is presumed -- any
16 citizen is presumed innocent unless and until the government
17 can meet its burden on each element of what's charged. It's
18 been said that the presumption of innocence alone is enough
19 to return a verdict of not guilty. Does that make sense to
20 everybody?

21 Mr. Weber, the presumption of innocence alone is
22 enough to return a verdict of not guilty. And the way this
23 works is -- none of you have heard any evidence; right? So
24 if you had to vote right now what would your verdict be?

25 **JUROR NO. 44:** Not guilty.

1 **MR. ROSENBLUM:** Right. Does that make sense to
2 everybody? Agree with that? This presumption, as the
3 Court, as Judge Webber has mentioned, provides that because
4 any citizen -- and Mr. Myers is presumed to be innocent. He
5 doesn't have to present -- we don't have to present any
6 evidence at all. We don't have to present any evidence, we
7 don't have to present his testimony. Like any one of us
8 accused of a crime, he has an absolute right not to testify.

9 Do any of you as you sit here now, think, *Well, boy,*
10 *if I were in that situation I'd sure want to be heard from?*
11 And are those feelings such that you would want to hear from
12 Christopher so much that it would impact your ability to be
13 fair and impartial regardless of what the Court's
14 instruction is?

15 So, as you're sitting here now, does anybody feel that
16 they would want or require Christopher to take the stand and
17 testify before you would consider a verdict of not guilty?
18 Does anybody come down like that or think about that? You
19 would have no problem following the jury instruction that
20 says you cannot consider whether or not, after speaking with
21 his lawyers, whether or not he testified, you can't consider
22 it one way or the other, you have to keep it out of your
23 mind. Everybody comfortable with that? How about on this
24 side of the room?

25 Ms. Golden, are you comfortable with that?

1 **JUROR NO. 52:** Yeah.

2 **MR. ROSENBLUM:** How about in the middle of the room?

3 Mr. Viau, are you good with that?

4 **JUROR NO. 50:** Yes, sir.

5 **MR. ROSENBLUM:** All right. Thank you.

6 And on the other side of the coin, Mr. Chris Myers has
7 an absolute right to testify, like any of us accused of a
8 crime, and if he chooses to testify he will be subject to
9 the same credibility instruction that the Court will read
10 with respect to every witness. Everybody good with that and
11 would be able to follow that particular law?

12 Mr. Boyd, it just reminded me a question that
13 Ms. Costantin had about whether anybody had any hearing
14 difficulties. I may have misread it on your questionnaire,
15 but did you indicate you had some hearing issues?

16 **JUROR NO. 34:** No. I was in the military for --

17 **MR. ROSENBLUM:** I'm sorry?

18 **JUROR NO. 34:** I was in the military for [inaudible].

19 **MR. ROSENBLUM:** You're hearing everybody all right?

20 **JUROR NO. 34:** Yeah.

21 **MR. ROSENBLUM:** All right, good. Lawyers have a
22 tendency to loud talk anyway. So, okay.

23 So, along those same lines of following up on the
24 questions of testifying, not testifying, does everybody
25 understand the concept of, you can't prove a negative;

1 right? Is it Ms. "Shobby"?

2 **JUROR NO. 42:** Schaben.

3 **MR. ROSENBLUM:** Schaben. Do you understand the
4 concept that you can't prove a negative? Does that make
5 sense, Mr. Harmon?

6 **(No audible response.)**

7 **MR. ROSENBLUM:** All right. Mr. Lammert?

8 **(No audible response.)**

9 **MR. ROSENBLUM:** Along the same lines, the Court's told
10 you that Chris Myers has entered a plea of not guilty.

11 That's why this case is here at issue for you all to decide.

12 I want to ask about -- there'll be different types of
13 evidence that will be introduced. You'll see -- I'm
14 anticipating you'll certainly hear from a number of
15 witnesses, witness testimony. I would anticipate that
16 you're going to see a number of photographs, documents, all
17 sorts of evidence for you to consider. That's evidence;
18 right?

19 Now, would you agree with me that speculation or
20 guessing is not the same as objective evidence? Does that
21 make sense? Okay. So I'll give an example.

22 If I asked you over there to guess Mr. Bilyeu's age --
23 right? There's 29 of you in the courtroom. Chances are
24 we're probably going to get -- if you're guessing, you're
25 probably going to get potentially 29 different guesses;

1 right? Does that make sense?

2 Now, at the end of that demonstration, after everybody
3 guessed, if I took out his birth certificate and I said,
4 *This is his age*, some of you are right, some of you are
5 wrong; right? That's objective evidence. That's a
6 difference; right?

7 Along those same lines, if I ask you to speculate why
8 Mr. Bilyeu's at that table, well, when you walked in you saw
9 him with some other defense lawyers. You may have said,
10 *Well, I'm assuming he's a lawyer because he's over there.*
11 *I'm speculating that he's a lawyer.* You may be right but
12 you may be wrong. He may be a paralegal, he may be an IT
13 guy. That's speculation. That's different than objective
14 evidence; right? Everybody agree to distinguish, as we go
15 through this case, what is speculation, what is guessing
16 versus what is objective evidence?

17 Will you do that, Ms. Gilbert? You didn't think I
18 could find you back there, but I saw you shaking your head.
19 All right, Number 61.

20 Ms. Costantin talked about credibility of witnesses.
21 And to be sure, jurors -- you all decide the facts and it's
22 your sole province to decide the facts and the credibility
23 of the witnesses that come before you. You guys decide
24 whether or not this person is testifying by way of an
25 agenda, whether or not their testimony is credible, is

1 consistent with the facts, is consistent with the other
2 evidence, whether or not they're lying, innocently mistaken.
3 That's all for you to decide. Do you all believe you can do
4 that, judge the credibility of a witness? Do you all
5 believe you can do that? Over here? Over here?

6 Mr. Kremer?

7 **JUROR NO. 51:** [No audible answer.]

8 **MR. ROSENBLUM:** All right, 51.

9 Now, you will hear from a number of law enforcement
10 officers, police officers, and there's a number of law
11 enforcement connections, potentially, if we decide to call
12 witnesses, and that's totally up to the defense. We're
13 under no obligation to, but if we decide to call witnesses,
14 you may hear from police officers from the defense.
15 Certainly you're going to hear from a number of police
16 officers from the prosecution.

17 But, as you sit here now, would any of you have
18 difficulty following an instruction that, as they walk
19 through that courtroom and swear an oath and testify, that
20 everybody is to be treated equally, treated the same? Now,
21 you can -- treated the same prior to their testimony. It's
22 up to you to determine credibility but you can't just
23 automatically say, *I'm going to believe this person because*
24 *they're law enforcement*, or disbelieve.

25 So, as you sit here now, does anybody feel that they

1 may be, because of the way they were indoctrinated -- not
2 "indoctrinated," the wrong word -- the way they had their
3 beliefs coming into this courtroom, that they may tend to
4 automatically believe police officers versus lay witnesses?
5 Or would you be able to treat them the same way? Everybody
6 agree to do that? Thank you.

7 There is one category, and Ms. Costantin touched on
8 it, when you'll be instructed that you can treat a witness
9 differently, and that category is a cooperating witness.
10 And I anticipate you will -- and Ms. Costantin has told you,
11 you are going to hear from a witness, and you are able to
12 consider two things about this witness under the law: One
13 thing about the witness that you can consider is that he's
14 pled guilty to a crime, and you can consider that and give
15 weight, give whatever weight you consider or whatever weight
16 you think that deserves, that he has pled guilty.

17 First of all, does everybody think that's fair? Let
18 me see your hands. Okay. Will everybody agree to follow
19 that particular instruction and consider his plea of guilty
20 in the way that the instruction tells to you do so? Can you
21 do that? How about on this side of the room, and on this
22 side of the room?

23 Now, you also find that this gentleman, this officer,
24 has pled guilty to his conduct arising out of the events
25 that Mr. Myers was charged with, but he was charged in a

1 different -- with a different charge, violation of civil
2 rights. As you know, Mr. Myers isn't. But the fact that he
3 has pled guilty arising out of the same facts, do any of you
4 now believe that, in fact, then Mr. Myers must be guilty of
5 something? Does anybody believe that? Can you
6 compartmentalize what he did with respect to Mr. Myers and
7 judge only Mr. Myers? Can you do that, in the middle? And
8 how about over here?

9 And, additionally, you're going to be -- I anticipate
10 an instruction that you will be able to consider the fact
11 that he is seeking and hoping and testifying with leniency
12 on his mind, that he's looking to get a better deal. Okay?
13 And you'll be given an instruction of how you can treat
14 that, how you can weigh that evidence, how you can determine
15 his desire to get a deal by virtue of his cooperation as to
16 his credibility. Does everybody agree to do that? Let me
17 see your hands. Do you think it's fair to do that? How
18 about over here, does everybody agree to do it? Do you
19 think it's fair? Okay.

20 We also, as we go through life, I imagine most of us,
21 if not all, have had a situation where we have either been
22 taken out of context or somebody has taken us out of
23 context. Has anybody been in that situation before where
24 something you've said has been taken out of context, or
25 something that you've listened to, that when you're

1 communicating with someone you've taken them out of context?
2 Anybody at all. Raise your hand if that's happened to you.
3 Right. I think it's happened to just about everybody.

4 Mr. Polizzi, Number 55, would you agree that if you
5 are taken out of context or somebody takes you out of
6 context, then you may miss -- there may be a
7 misunderstanding or you may ultimately form the wrong
8 conclusion as to what's -- what you're talking about; right?

9 **JUROR NO. 55:** Yes.

10 **MR. ROSENBLUM:** And, in fact, I don't know whether
11 you're a movie watcher. I'll give you an example. Have you
12 watched a movie recently?

13 **JUROR NO. 55:** No.

14 **MR. ROSENBLUM:** Okay.

15 **JUROR NO. 55:** Not a movie guy.

16 **MR. ROSENBLUM:** That's what I get for speculating,
17 right, or guessing? Well, let's pretend that you watched a
18 movie, okay? At some point in your life you watched a
19 movie; right?

20 **JUROR NO. 55:** Yes.

21 **MR. ROSENBLUM:** Would you agree that if you only
22 watched a couple minutes in the middle of that movie as
23 opposed to the entire movie, you may not understand what the
24 movie's about --

25 **JUROR NO. 55:** Yes.

1 **MR. ROSENBLUM:** -- because it would be out of context.

2 **JUROR NO. 55:** Correct.

3 **MR. ROSENBLUM:** Just as in our daily life where we
4 have to consider the context of what's going on, would you
5 agree it's important, especially in any important issue or
6 matter, to consider the entire context of the situation?
7 Everybody agree to do that?

8 So just like -- and relating it to this case, and
9 certainly Mr. Myers' case, would you all agree to consider
10 the entire context of the case before deciding the most
11 important thing in Mr. Myers' life, whether or not he's
12 guilty or not guilty? Do you all agree to do that? All
13 right. Thank you.

14 I know Ms. Costantin asked about jury service and I
15 just want to cover it real briefly. Prior criminal jury
16 service. Did anybody respond? Prior criminal jury service?
17 Yeah, I knew somebody.

18 Ms. Golden, can you tell me what kind of case it was.

19 **JUROR NO. 52:** The man was -- it was --

20 **MR. ROSENBLUM:** I'm sorry. You can take your mask
21 off.

22 **JUROR NO. 52:** It was people that had just got
23 married, and they have different children, you know,
24 different families. And the man's son was accused of
25 molesting the daughter, but then the father was standing

1 trial for it because they thought it was his fault.

2 **MR. ROSENBLUM:** All right. I don't want to know the
3 verdict, but --

4 **JUROR NO. 52:** Guilty.

5 **MR. ROSENBLUM:** I didn't want to know the verdict. So
6 the jury did reach a verdict?

7 **JUROR NO. 52:** Yes.

8 **MR. ROSENBLUM:** Were you the foreman of that jury?

9 **JUROR NO. 52:** No.

10 **MR. ROSENBLUM:** Okay. Thank you, ma'am.

11 I don't think anybody -- was there another answer on a
12 criminal jury? Yes, sir. Mr. Cobb.

13 **JUROR NO. 49:** I don't remember what year it was. I
14 don't remember when it was. It was 15, 20 years ago in
15 St. Louis.

16 **MR. ROSENBLUM:** St. Louis City or County?

17 **JUROR NO. 49:** City.

18 **MR. ROSENBLUM:** Do you recall the type of case?

19 **JUROR NO. 49:** I'm sorry?

20 **MR. ROSENBLUM:** Do you recall the type of case or the
21 charge?

22 **JUROR NO. 49:** Yes.

23 **MR. ROSENBLUM:** What was that?

24 **JUROR NO. 49:** Attempted rape and kidnapping.

25 **MR. ROSENBLUM:** Okay. And, again, without telling me

1 the verdict, did that jury reach a verdict?

2 **JUROR NO. 49:** Yes.

3 **MR. ROSENBLUM:** Were you the foreman of that jury?

4 **JUROR NO. 49:** No.

5 **MR. ROSENBLUM:** Okay. Thank you, Mr. Cobb.

6 Any one of us accused of a crime is entitled to
7 confronted our accusers. You've heard of that; right? And
8 I intend to cross-examine the witnesses that the government
9 puts forward, including any -- including the complaining
10 witness, Mr. Hall. Any other witnesses, I intend to
11 cross-examine them. The Sixth Amendment to the
12 United States Constitution provides that we can do so, and
13 that's how we confront witnesses, and that protection is
14 afforded to each and every one of us. Is everybody okay
15 with that concept, thinks that's the way it should be?

16 Okay.

17 And, again, I mentioned it before, but when you hear
18 evidence on cross-examination, that's the same as hearing it
19 on direct. There's no difference. It's evidence, it's
20 testimony. There'll be direct evidence and then there's
21 cross-examination. So there's no difference in the weight.
22 It's just -- it just is for you to determine the
23 credibility; right?

24 And then with respect to cross-examination, again,
25 everybody understands that I can, we can, establish

1 reasonable doubt just through cross-examination; right? Can
2 I see your hands? All right. Thank you.

3 Have any of you been involved in a situation where
4 you're in a conversation with someone and you're trying to
5 determine whether they're speaking literally or
6 figuratively? Does that make sense? Does everybody
7 understand that? Like, for instance, if you have -- say you
8 have a child going to a dance recital, you say, *Go out there*
9 *and break a leg*; right? You understand the difference, that
10 you're not actually going to tell her to break a leg. It's
11 just a term of speech; right? The difference between
12 figuratively speaking and literally. Everybody understand
13 that concept?

14 How many of you guys are text messagers? Okay. Would
15 you agree with me that sometimes when you're texting there
16 may be conversations or meanings that are lost in
17 translation of the text; right? How many of you all have
18 said -- you're in the middle of a text conversation,
19 especially probably with your kids, if you're anything like
20 me, and midway through you have to stop and say, *Okay*. Now
21 *what are you talking about*? Anybody go through that
22 situation? Okay. So, generally, you can agree that
23 sometimes text messaging isn't the best way to communicate
24 your thoughts. Agreed? All right.

25 Any members of the military, ever served in the

1 military in the jury box? Yes, sir. Mr. Boyd?

2 **JUROR NO. 34:** Army.

3 **MR. ROSENBLUM:** Army. And when did you serve, please?

4 **JUROR NO. 34:** '89 through '92.

5 **MR. ROSENBLUM:** Okay. Thank you. Anybody on the
6 right side of the room? And in the jury box? Mr. Viau.
7 Yes, sir?

8 **JUROR NO. 50:** Marine Corps, '96 to 2017.

9 **MR. ROSENBLUM:** '96 to 2017. So you stayed on in
10 active service?

11 **JUROR NO. 50:** Just shy of 21 years.

12 **MR. ROSENBLUM:** Okay. Thank you.

13 So here's my last -- well, I'm going to ask two
14 questions. I know that's painfully disappointing but you've
15 gone through a lot of questions from the government and from
16 the Court. And, again, I'll just ask a wrap-up question.
17 And, honestly, this probably just comes from experience of
18 the lawyers because we've all had situations where we've
19 gone through this process, and I thank you for sitting and
20 patiently answering our questions, but then at the end of
21 all these questions somebody comes forward and says, "Why
22 didn't you ask me this?" And it happens to be something
23 particularly relevant to the case. So, has anybody sitting
24 here now -- do any of you feel that there's something,
25 anything that we should know about you that one of the --

1 that myself or Ms. Costantin or His Honor hasn't asked yet
2 that could affect your ability to be fair and impartial?

3 Number 59, Ms. --

4 **JUROR NO. 59:** My husband spent 31 years working for
5 NGA.

6 **MR. ROSENBLUM:** I'm sorry.

7 See, that's why we ask this question. That's
8 Ms. Winters, is it?

9 **JUROR NO. 59:** My husband spent 31 years working for
10 the government, NGA. So that -- he works a lot with the
11 FBI, the CIA, the DEA.

12 **MR. ROSENBLUM:** Okay. So, thank you for bringing that
13 up. And do you think, do you feel that that long
14 association with the government by your husband would affect
15 your ability to be fair and impartial?

16 **JUROR NO. 59:** I don't think so.

17 **MR. ROSENBLUM:** Do you think --

18 **JUROR NO. 59:** I think that I am partial to --

19 **MR. ROSENBLUM:** Pardon me?

20 **JUROR NO. 59:** I think that I am partial --

21 **MR. ROSENBLUM:** You are partial?

22 **JUROR NO. 59:** -- to the government side because of
23 all the work he's done.

24 **MR. ROSENBLUM:** And that's fair. And that's -- you
25 know, 31 years is a long time, and that's why I ask the

1 question, and -- thank you for bringing it up. So you would
2 agree, if you are partial, that would make you less than
3 fair and impartial to hear this case?

4 **JUROR NO. 59:** Sorry?

5 **MR. ROSENBLUM:** You do not have to apologize. That's
6 what this process is all about, okay? Thank you, ma'am.

7 **THE COURT:** Number?

8 **MR. ROSENBLUM:** I'm sorry. Number 59.

9 Anybody else have something that we should know about?

10 All right. And the last thing before I sit down -- I
11 know it's been a long day, or long afternoon, and I
12 certainly and thank you for your attention. But if you
13 would just take a moment and reflect on, specifically on the
14 principles of law that we spoke about and everything that
15 the Court read to you, the principles of law that
16 Ms. Costantin spoke to you about, and, of course, the
17 principles of law that I spoke with you specifically about,
18 the presumption of innocence and the burden of proof.

19 And as you sit here now, as you sit here now, do any
20 of you at all -- do any of you presume anything at all about
21 Christopher Myers' guilt or innocence? Do you presume
22 anything at all about his guilt or innocence? You presume
23 anything at all about his guilt or innocence? Okay. Not
24 one? Not one teacher?

25 Ms. Ijames, do you presume him to be innocent?

1 **JUROR NO. 56:** Yes.

2 **MR. ROSENBLUM:** Do you understand that, because every
3 hand didn't go up after talking about these principles, it
4 could cause some concern, and the concern is that you hear
5 the words but sometimes they're not there in application.
6 Okay? Do you all agree and promise to give real meaning to
7 those words "the presumption of innocence" if you're
8 selected as a juror in this case? In the jury box? On the
9 right side and in the middle? Can we count on that?

10 Thank you for your time.

11 **THE COURT:** Mr. Kilgore?

12 **MR. KILGORE:** May I begin, Your Honor?

13 **THE COURT:** You may begin.

14 **MR. KILGORE:** Thank you.

15 Good afternoon ladies and gentlemen. Excuse me. My
16 name is Patrick Kilgore again, and I represent Dustin Boone.
17 I'm going to try and be as brief as I can. I want to just
18 first ask you all -- as I said, I do represent Mr. Boone.
19 They are to be treated separately, as Mr. Rosenblum
20 indicated to you, by your view of the evidence. But with
21 regard to all of the constitutional protections, all of the
22 instructions he discussed with you that you'll receive from
23 the Court, specifically regarding the presumption of
24 innocence, the burden of proof beyond a reasonable doubt,
25 all of those things -- and the right not to testify and

1 everything that he described, can you all just assure me
2 that you will apply those things to Dustin Boone as well?
3 Does everybody understand those apply equally to him as
4 well? Okay. I see everybody nodding their heads.

5 Okay. I wanted to talk specifically about a couple of
6 things. Mr. Rosenblum also mentioned text messages. I
7 anticipate that during the course of this trial that some
8 text messages will be introduced into evidence, and there
9 will be some text messages that I would describe as -- well,
10 I would say that they would be describing Mr. Boone as text
11 messaging and indicating his views about protesters and
12 about the protesting that's going on beginning in September,
13 September 15th of 2017, and lasting through that weekend.
14 Those text messages are disparaging of protesters and
15 commentary and things of that nature.

16 So, my question is -- well, let me say this: I
17 anticipate also the judge is going to give you an
18 instruction on how to evaluate those text messages and what
19 use you can give them.

20 So, my question is: Knowing that bit of information,
21 is there anybody who's going to automatically find
22 Dustin Boone of knowingly and intentionally violating --
23 aiding and abetting the violation of Luther Hall's civil
24 rights just because he sent those types of text messages?
25 Okay. I don't see any hands. Am I being -- everybody

1 understand what I'm talking about? Okay.

2 Now, the second issue I wanted to talk to you all
3 about -- and it's very difficult to talk about it. It's
4 very difficult for me to talk to you about it. But it deals
5 with racism. And I anticipate that you will see evidence
6 that Mr. Boone sent text messages that are racist. There's
7 no context that can be given to them. They are vile and
8 racist.

9 And, again, you'll receive an instruction from the
10 Court about how to deal with that and how to evaluate that.
11 But at no time will you be instructed that evidence of --
12 those messages are evidence that Mr. Boone is guilty of
13 violating Luther Hall's civil rights, of aiding and abetting
14 the deprivation of his civil rights on September 17th of
15 2017.

16 So, having said that, is there anybody here who would
17 automatically find Dustin Boone guilty of violating
18 Luther Hall's civil rights or aiding abetting the violation
19 of Luther Hall's civil rights just because he sent racist
20 and exchanged racist text messages? Is there anybody who
21 would do that?

22 Now, I know that in your own lives, in your own life
23 experiences and the environments in which you've lived in,
24 is there anybody who hasn't experienced a close friend,
25 family member, somebody you know, maybe a co-worker who's

1 used racist language? Is there anybody who's not had that
2 experience ever? Okay. Unfortunately, I think it's an
3 experience that we've had.

4 Do you believe that a person can evolve from those
5 views, can change, can realize how wrong those type -- even
6 making those types of statements are? How utterly wrong
7 that it is? I see everybody nodding their head. Okay.

8 So, I like the example that Ms. Costantin gave about
9 her and Mr. Livergood robbing a bank. I like the visual of
10 it, but it also does illustrate the aiding and abetting
11 instruction. And, so, if you recall that, she said that --
12 I think she gave two different scenarios. One where
13 Mr. Livergood is just the lookout and the other one where
14 he's actually driving the getaway car. And she explained to
15 you how that is an example of aiding and abetting a crime.

16 Do you understand that the reason that that is, is
17 because in those examples Mr. Livergood would be acting
18 knowingly and wilfully in the commission of that crime.
19 Does everybody understand that? Okay.

20 So the reason I mention that is because I believe that
21 you will hear evidence that Dustin Boone was present at or
22 near the location where this offense occurred, and you
23 will -- the instruction will require you to find that he
24 acted knowingly and wilfully. So is there anybody who would
25 find Dustin Boone guilty just because he was there, just

1 because you hear evidence that he was at the scene so to
2 speak?

3 Okay. See everybody shaking their heads. Okay. So I
4 guess having heard that little bit of what I had to say
5 about this, is there anybody now who would, for whatever
6 reason, not apply all of those same constitutional
7 protections to Mr. Boone? Hold the government to its burden
8 of proof, give the presumption of innocence its true weight
9 and meaning? Does everybody agree with that? You all
10 promise me that you're going to do that? Okay.

11 || Thank you, Judge. That's all I have.

12 Thank you all very much.

13 **THE COURT:** May I speak just briefly with counsel.

14 * * * *

15 *(Discussion held at sidebar between the Court and*
16 *counsel as follows:)*

17 **THE COURT:** My intention is to tell the jury that we
18 really tried wanted to finish up today and so they could go
19 home tonight that weren't picked, but we couldn't get it
20 done, and that they are all going to have to come back in
21 the morning at 10:00.

22 **MR. ROSENBLUM:** I have one additional strike for cause
23 if you want to excuse her. I don't know what
24 Ms. Costantin's position is. Ms. Winters says she's partial
25 to the government.

1 **MS. COSTANTIN:** We might as well strike her now and
2 not have her come back. I agree with that.

3 **THE COURT:** So do you want me to send them out in the
4 hall?

5 **MS. COSTANTIN:** I don't know if she's --

6 **THE COURT:** I'll show you the ones that I'm going to
7 strike on this panel. This is second. I mean I think when
8 I say I'm going to strike them, I think this is --

9 **MR. ROSENBLUM:** They've already been struck, I think.
10 I would just move to strike Ms. Winters, who is
11 Juror No. 50 --

12 **MS. COSTANTIN:** Fifty-nine.

13 **MR. ROSENBLUM:** Fifty-nine. She's the lady that
14 indicated that her husband worked for the government for 31
15 years, FBI, CIA.

16 **THE COURT:** Yeah, she's here.

17 **MS. COSTANTIN:** You've got her on the -- we haven't
18 struck her yet.

19 **THE COURT:** Well, what I'm saying is, these are the
20 ones that I think -- that I believe we had come to agreement
21 that they would be struck.

22 **MS. COSTANTIN:** Correct. I think everybody else --
23 48 -- yeah, everybody else, and everybody else has been sent
24 home except for 59.

25 **THE COURT:** Except 59.

1 **MR. ROSENBLUM:** Yes. We would be saying that she
2 doesn't need to come back tomorrow.

3 **THE COURT:** If you want to send them out in the hall
4 and do your other strikes.

5 **MS. COSTANTIN:** Do you want to do strikes tonight?

6 **THE COURT:** Not peremptories for cause.

7 **MR. ROSENBLUM:** The only strike that's left open is --
8 we've all agreed that 59 -- it's just a question of whether
9 you -- she doesn't need to come back tomorrow.

10 **THE COURT:** I'm going to send -- everybody come back
11 except 59.

12 **MS. COSTANTIN:** Exactly.

13 **MR. ROSENBLUM:** Perfect.

14 *(End of discussion at sidebar.)*

15 * * * *

16 **THE COURT:** The attorneys in this case worked really
17 hard today to try to accomplish what we hoped we might do,
18 and that was to determine everyone who would have to come
19 back in the morning, and then the balance of you could stay
20 home, but we can't get there. We have to do some other work
21 in the morning, so it will be necessary -- and, Number 59
22 you will not have to come back in the morning. Other than
23 that, you all will be required to come back in the morning
24 at 10:00. I don't anticipate it will take a lot of time,
25 but it's necessary to pick the jury for you to come back in

1 the morning at 10:00. Everyone understand? I don't expect
2 to be happy about it, but everyone understand 10:00 in the
3 morning? Okay. And report in the jury assembly room.
4 Anyone who has any questions about that? Okay. All right.
5 Well, court will be in recess at this time.

6 **(Jury out.)**

7 **(The following proceedings were conducted in the**
8 **presence of the defendants.)**

9 **THE COURT:** Could we talk a moment about the first
10 panel, make sure I have the right numbers.

11 **MS. COSTANTIN:** Yes. Judge, also, I'm going to --
12 there is another strike cause on the first panel that I
13 wanted to do on the first panel. Do you want to go through
14 who's been struck for cause already on the first panel?

15 **THE COURT:** I'm sorry.

16 **MS. COSTANTIN:** Do you want to go through the first
17 panel, who already has been struck for cause?

18 **THE COURT:** These are the ones that I believe have
19 been struck: Number 4, 6; correct?

20 **MS. COSTANTIN:** Correct.

21 **THE COURT:** Fourteen.

22 **MS. COSTANTIN:** Yes.

23 **THE COURT:** Eighteen.

24 **MS. COSTANTIN:** Correct.

25 **THE COURT:** Twenty-two.

1 **MS. COSTANTIN:** Twenty-two? I don't have 22 yet,
2 Judge.

3 **THE COURT:** Okay. I think what happened, I had
4 earlier marked and then --

5 **MR. ROSENBLUM:** He wasn't struck.

6 **THE COURT:** -- upon her -- after she was interrogated
7 by Mr. Rosenblum, I have another mark. So we'll take her
8 off. She's not --

9 **MS. COSTANTIN:** Who did you have past 22, Judge?

10 **THE COURT:** Pardon me?

11 **MS. COSTANTIN:** We also show 31 and 32 as being
12 struck.

13 **THE COURT:** I show 31 as excused. And let me look at
14 32.

15 **DEPUTY CLERK:** Thirty-two was excused.

16 **THE COURT:** It's Madison Green. Tell me -- I didn't
17 mark her as excused yet, but explain why she should be
18 excused.

19 **MS. COSTANTIN:** Judge, I believe we let her go because
20 she indicated that she had concerns that the feelings about
21 the Floyd case would spill over, that she was not going to
22 be able to keep that separate.

23 **THE COURT:** Yeah, that's right. If spilled over,
24 probably help -- yeah. Okay. That's correct. So, 32.

25 **MS. COSTANTIN:** Judge, I would like to move to strike

1 Number 25. And this is the man who knows that this is the
2 second time. I just think we're playing with fire here.
3 This is someone who knows that there's a retrial. He read
4 about it, he knows about it, and I just think it's not
5 proper that we have someone on the jury who knows that there
6 was a first trial. And he said multiple times he would do
7 his best to set it aside but it would be hard. I'm just
8 reading my notes. He also thought that race was
9 hyperexaggerated in some instances.

10 **MR. FEIN:** He thought sometimes it's exaggerated but
11 it's awful that we have these issues.

12 **MS. COSTANTIN:** And when people use racist language in
13 front of him, he just let it pass. My true concern is that
14 he knows about the first trial and he's familiar with the
15 fact that this is a second --

16 **MR. ROSENBLUM:** Your Honor, I would say that would be
17 a peremptory challenge because I think that he clearly -- I
18 questioned him -- unlike some of the other jurors that read
19 in detail and they knew the splits, he generally said, "I
20 was aware that there was another trial." And I questioned
21 him at some length and he repeatedly said that would not
22 affect him at all and he would not -- he would
23 compartmentalize and decide this case just on the evidence
24 and the law.

25 **MR. FEIN:** All of the instructions.

1 **MR. ROSENBLUM:** He would follow the instructions. He
2 seemed to me to be a very conscientious juror, in fact.

3 **MS. COSTANTIN:** He was bothered by the news coverage
4 that there were two white police officers attacking a police
5 officer that that created unnecessary tensions in the
6 environment.

7 **THE COURT:** Well, inevitably he did say he could put
8 it aside and decide the case based on the evidence, so I'll
9 deny the challenge at this time on 25.

10 We do not need the other 15 tomorrow; am I correct?
11 Anyone disagree with that?

12 **MR. ROSENBLUM:** I'm sorry. What?

13 **THE COURT:** We do not need the extra 15 tomorrow?

14 **MS. COSTANTIN:** I think that's right, but let me just
15 double check. Yeah, we're fine.

16 **THE COURT:** Are we agreed we do not need the extra?

17 **MS. COSTANTIN:** Correct, Judge. We don't need the
18 other panel.

19 **MR. ROSENBLUM:** Do you want to go through the second
20 panel causes?

21 **THE COURT:** Are we finished with the first panel?

22 **MR. ROSENBLUM:** Okay. I just want to make sure I got
23 it right. I have 4, 6, 14, 18, 31, and 32.

24 **MS. COSTANTIN:** I have to say, I'm looking at -- you
25 had raised 22, and my notes are showing that there would be

1 an impact on her ability to be fair. It's a struggle being
2 there in general. Struggle being -- I'm not sure if that
3 was reflected as being a juror in general. She had a father
4 who was treated unjustly.

5 **MR. ROSENBLUM:** Your Honor, if I may.

6 Number 22, the government didn't raise the issue at
7 the time because they correctly indicated that I
8 rehabilitated her, and I think your notes would also show
9 that she was rehabilitated. Her issue was generally serving
10 as a juror, that she finds it difficult, but I questioned
11 her that: "Nobody's going to say it's not difficult, but
12 the question is, again, can you set aside any feelings you
13 have and decide this case just on the evidence and facts?"

14 And she indicated that rather -- she indicated that a
15 couple times and also said that she can decide this case
16 fairly and impartially for both sides not only the
17 government but for the defense.

18 **THE COURT:** Initially she said, "Can't say. Might
19 have impact."

20 Would you -- on the very -- would you pull up the
21 Number 22. Do you want to do this in the morning? We can
22 pull it up and see. I have another note which said, yes,
23 this is why I struck her; yes, it would have impact. And
24 that's why I was -- I thought she was gone. But I also have
25 a note that -- as to some of the other matters, that I

1 thought she had been rehabilitated.

2 But would you pull up her -- could you give me -- have
3 it available in the morning, Laura?

4 **COURT REPORTER:** Of course, Judge.

5 **THE COURT:** And we'll take it up.

6 **MS. COSTANTIN:** And at that time can we talk sort of
7 about what we anticipate the schedule's going to be like
8 tomorrow as in, if I need to be bringing witnesses and --

9 **THE COURT:** I would expect that it won't take long in
10 the morning to get the jury, and I would expect this to go
11 into opening statements and --

12 **MS. COSTANTIN:** Okay. Judge, we'll have witnesses
13 here starting in the afternoon.

14 **THE COURT:** Yes.

15 **MS. COSTANTIN:** If that's okay.

16 **THE COURT:** I think that's fair.

17 **MR. ROSENBLUM:** All right. You want to go through
18 the --

19 **MS. COSTANTIN:** Scott, let's -- you mean just go
20 through to see if there's any -- what strikes we already
21 have?

22 **MR. FEIN:** What we've already agreed on.

23 Thirty-eight.

24 **MR. ROSENBLUM:** Thirty-eight, Ms. Murray. I have --

25 **MR. FEIN:** Forty-seven.

1 **MR. ROSENBLUM:** Forty-seven, Mr. Boyle. Forty eight,
2 Mr. Holder.

3 **MR. FEIN:** Fifty-four.

4 **MR. ROSENBLUM:** Fifty-four, Ms. Seib.

5 **MR. FEIN:** Fifty-seven.

6 **MR. ROSENBLUM:** Fifty-seven, Ms. Winters.

7 **MR. FEIN:** Fifty-nine.

8 **MS. COSTANTIN:** No, no. Fifty-seven is Schultz.

9 **MR. ROSENBLUM:** Fifty-seven, Mr. Schultz. Fifty nine,
10 Ms. Winters.

11 **MS. COSTANTIN:** Yep. That's what I agree.

12 **THE COURT:** Are there others for cause from the
13 United States?

14 **MS. COSTANTIN:** I don't have any additional cause at
15 this point, any for additional cause at this point, but I
16 would like the opportunity to review my notes in the
17 morning.

18 **THE COURT:** Sure.

19 **MR. ROSENBLUM:** Do you want me to go over the second
20 panel again?

21 **THE COURT:** I'm sorry?

22 **MR. ROSENBLUM:** Did you wanted me to go over the
23 second panel that we can agree on?

24 **THE COURT:** Sure.

25 **MR. ROSENBLUM:** Okay. I think we've agreed on 38,

1 Ms. Murray; 47, Mr. Boyle; 48, Mr. Holder; 54, Ms. Seib; 57,
2 Mr. Schultz; and 59, Ms. Winters.

3 **THE COURT:** That's what I show. Any other challenges
4 for cause?

5 **MR. ROSENBLUM:** Not at this time, but I'll review my
6 notes just like Ms. Costantin.

7 **THE COURT:** Okay. Good. I am leaning towards my old
8 system of putting the names in a box and pull them out,
9 so -- I don't like just excusing people on the end just
10 because they're on the end. My name was Webber. I always
11 got kicked off on the end.

12 We'll talk about it in the morning.

13 *(Proceedings adjourned at 5:20 p.m.)*

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REPORTER'S CERTIFICATE

I, Laura A. Esposito, Registered Professional Reporter and Certified Realtime Reporter, hereby certify that I am a duly appointed Official Court Reporter for the United States District Court for the Eastern District of Missouri.

I further certify that the foregoing is a true and accurate transcript of the proceedings held in the above-entitled case, that said transcript contains pages 1 through 235, inclusive, and was delivered electronically. This reporter takes no responsibility for missing or damaged pages of this transcript when same transcript is copied by any party other than this reporter.

Dated at St. Louis, Missouri, this 2nd day of September
2021.

Laura A. Esposito

Laura A. Esposito, RPR, CRR, CRC
Official Court Reporter